United States Court of Appeals

for the Second Circuit

APPELLEE'S SUPPLEMENTAL APPENDIX

Affidavit

76-6091

United States Court of Appeals
FOR THE SECOND CIRCUIT

Docket No. 76-6091

RICHARD J. DE FINA,
Plaintiff-Appellant,

—v.—

FEDERAL AVIATION ADMINISTRATION, ET AL.,
Defendants-Appellees.

RICHARD J. DE FINA,
Plaintiff-Appellant,

—v.—

VIRGINIA M. ARMSTRONG, ET AL.,
Defendants-Appellees.

RICHARD J. DE FINA,
Plaintiff-Appellant,

—v.—

CLARENCE M. KELLEY, ET AL.,
Defendants-Appellees.

RICHARD J. DE FINA,
Plaintiff-Appellant,

—v.—

RITCHEY WILLIAMS, ET AL.,
Defendants-Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

SUPPLEMENTAL APPENDIX

ROBERT B. FISKE, JR.,
United States Attorney for the Southern District of New York
Attorney for the Federal Defendants-Appellees

NATHANIEL L. GERBER,
WALTER S. MACK, JR.,
Assistant United States Attorneys,
Of Counsel.

UNITED STATES COURT OF APPEALS
FILED
OCT 28 1976
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

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* These copies have been reproduced from the files of the United States Civil Service Commission because the exhibits appended to the complaints filed in actions 75 Civ. 1526, 75 Civ. 1564 and 75 Civ. 2362, could not be reproduced. The copies are identical to the exhibits in all material respects.

A 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

RICHARD J. DE FINA,

Plaintiff,

75 Civ 1526

-v.-

DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION; DENNIS S. FRIEDMAN and [illegible] CHURCHVILLE, individually and as employees of the Department of Transportation, Federal Aviation Administration assigned to pass upon information to be given under the FREEDOM OF INFORMATION Act and JOHN DOE #2, individually and as employee of the Department of Transportation Federal Aviation Administration,

AMENDED COMPLAINT

Defendants.

- x

That: On March 24, 1975, plaintiff came into possession of a document, Exhibit A, attached to this complaint, sent to the Civil Service Commission, New York Region, 26 Federal Plaza, New York City, New York, by the Department of Transportation Federal Aviation Administration, regarding the plaintiff, to wit: The plaintiff has been proven guilty of a crime by the statements of persons whose names were expurgated from the document attached hereto as Exhibit A. I have been accused in the same document of highly libelous, derogatory fictions, again, the names of my accusers were expurgated. I have been damaged both in the past and in the present by these persons unknown to me and whose names are being deliberately concealed from me in order to prevent me from exposing a conspiracy to ruin my character, reputation and prevent me from earning a living in my field of expertise and living a normal and productive life and causing me to suffer extreme mental anguish in the sum of $7000,000.00.

BEST COPY AVAILABLE

SECOND: This Court has jurisdiction under the Fifth Amendment of the United States Constitution which guarantees me due process of law, also my rights under the Veterans Preference Act were violated, in addition my Civil rights and my rights under the Freedom of Information Act, which the defendants refused to recognize after being served with frequent demands for the material facts with which to exercise my legal rights to vindicate myself.

THIRD: My name is Richard J. De Fina and I reside at 220-51 Union Turnpike, Flushing, New York.

FOURTH: DENNIS [illegible] and L.J. CHUMCHVILLE, are both in Information Services, Washington, D.C. and employees of Department of Transportation Federal Aviation Administration, and are sued individually and as employees of the beforementioned agency. John Doe #2 is an employee of the Department of Transportation, [illegible] Federal Building, J.F.K. International Airport, Jamaica, New York, and is sued invidivually and as employee, the whose true name is presently unknown to plaintiff.

FIFTH: I wish the identities of my alleged conspirators as I plied in the attached exhibit A. I request to expunge from all records the derogatory fictions of the beforementioned alleged conspirators and remove the threat of being prosecuted unjustly for a fictitious crime.

Richard J. DeFina

RICHARD J. DE FINA

Sworn to before me this
20th day of May 1975

Madeline R. DeFina

MADELINE R. DEFINA
NOTARY PUBLIC, State of New York
No. 41-[illegible]35 - Queens County
Term Expires [illegible] 30 1976

A 3a

U.S. CIVIL SERVICE COMMISSION

DIRECTOR, NEW YORK REGION
U.S. CIVIL SERVICE COMMISSION
FEDERAL BUILDING, 26 FEDERAL PLAZA
NEW YORK, N.Y. 10007

NEW YORK REGION
COMPRISING NEW YORK, NEW JERSEY,
PUERTO RICO AND THE VIRGIN ISLANDS
OFFICE OF THE DIRECTOR, NEW YORK, N.Y. 10007

MAR 21 1975

YOUR REFERENCE

Ms. Madeline E. DeFina
Attorney-at-Law
220-31 Union Turnpike
Flushing, New York 11364

Dear Ms. DeFina:

This is in reply to your request of February 19, 1975 and Mr. Richard J. DeFina's letter dated March 6, 1975 and received in this office March 10, 1975 authorizing you to request under the Freedom of Information Act a variety of records and information pertaining to him.

In our letter of March 13, 1975 you were informed of our referral of the two letters to other offices for consideration. They will respond directly to you.

Mr. Defina's name does not appear on any current list of eligibles maintained at the New York Regional office. However, we have the records pertaining to his previous eligibilities under the Sky Marshal, Junior Federal Assistant and Technical Assistant announcements.

Under the Freedom of Information Act we are releasing to you copies of the register cards for Mr. Defina on the above announcements (Attachment 1). One side is filled out by the applicant and the other side lists the agencies he has been referred to and the action taken. We are also releasing copies of the actual list of eligibles sent to the listed agencies for consideration for filling their specific vacancy (Attachment 2). The names and addresses of other candidates on the list have been deleted to protect their privacy.

The Sky Marshal positions were announced for Grades GS-4, GS-5, or GS-7 depending upon the written test score and the qualifications of the individual. In order to be considered for Grade GS-5 or GS-7, competitors had to have at least 56 correct answers on the written test and meet the qualification requirements for GS-5 or GS-7. Mr. DeFina had 51 correct answers and therefore was qualified for GS-4 only.

A 4a

The Federal Aviation Administration submitted an objection to Mr. DeFina's name being submitted for consideration for the position of Electronic Technician GS-4. We sustained their objection and removed his name from consideration for that specific position. A copy of the reasons submitted by the agency with deletions to protect the firms' privacy and of our findings are attached (Attachment 3).

In accordance with provisions in the Freedom of Information Act, the information is provided at a cost of $13.00. Please make the check or money order payable to the Treasurer of the United States.

You have a right to appeal this decision to the Assistant Executive Director for Freedom of Information, U.S. Civil Service Commission, 1900 "E" Street, N.W., Washington, D.C. 20415 within ten working days from receipt of this letter. If you do appeal, we would appreciate your clearly indicating both on the letter and on the envelope that it is a request under the "FREEDOM OF INFORMATION ACT."

Sincerely yours,

Virginia M. Armstrong
Regional Director

Attachment

cc - Assistant Executive Director (POI)
U. S. Civil Service Commission

UNITED STATES CIVIL SERVICE COMMISSION

TO THE APPOINTING OFFICER:

File:

A 5a

Date: 2/3/73

OBJECTIONS TO ELIGIBLE

☒ The objection is sustained and the eligible is removed from consideration.

☐ The objection is not sustained for the reasons shown below under remarks.

REASONS FOR PASSING OVER A PREFERENCE ELIGIBLE

☐ The reasons for passing over the preference eligible and tentatively selecting a nonpreference eligible are sufficient in the judgment of the Commission. The nonpreference eligible whom you tentatively selected may be appointed. If this form was submitted with the original certificate report, such certificate report of tentative selection will be considered as final, unless you later submit an amended report showing other action.

☐ The reasons which you submitted for passing over the preference eligible and tentatively selecting a nonpreference eligible are not sufficient in the judgment of the Commission. (See remarks below.) If this form was submitted to the Commission with the original certificate report, appointment of the preference eligible in place of or in addition to the nonpreference eligible should be reported to the certifying office by an amended certificate report. If you still desire to appoint the nonpreference eligible, you must furnish the Commission more detailed information concerning your reasons for passing over the preference eligible. Your additional statement should be submitted in triplicate attached to this copy of this form. Unless you reserve a position for the preference eligible, you may not appoint the nonpreference eligible while decision by the Commission on your second statement is pending. If your reasons are again found to be insufficient, 5 U.S.C. 3318 prohibits you from passing over the preference eligible and appointing the nonpreference eligible.

REMARKS:

UNITED STATES CIVIL SERVICE COMMISSION

FORM 62 **STATEMENT OF REASONS FOR OBJECTING TO AN ELIGIBLE OR**

A 60a

U. S. Civil Service Commission
New York City Area Office
Federal Building
26 Federal Plaza
New York, New York 10007

Submit in Triplicate to the Area Office which issued the Certificate; or in the absence of a Certificate, to the office which has examining jurisdiction.

INSTRUCTIONS TO APPOINTING OFFICER FOR USE OF THIS FORM

An *objection* by an appointing officer to an eligible on a certificate, when sustained by the Commission, eliminates that gible from the group of three from which the appointing officer is entitled to select, and brings the next available eligi- within reach. A *veteran passover* is the act on the part of the appointing officer of selecting a nonpreference eligible thin a group of three when there is a higher ranking preference eligible within the group. The nonpreference eligible ected may not legally be entered on duty unless the Commission finds that the reasons for passing over the preference gible are sufficient, or unless a vacancy is reserved for the preference eligible pending receipt of the Commission's deci- n. Similar provisions apply to temporary appointments made outside of registers. (See 5 U.S.C. 3318. Procedures and guides in Chapter 332 of the Federal Personnel Manual.)

This form should be used to object to an eligible or to request authority to pass over a preference eligible and appoint nonpreference eligible. One copy will be returned to you with the Commission's decision shown on the reverse. You uld submit with the form all available information and documents considered pertinent to the case, such as application, ition description, medical certificate, service record, etc.

E AND ADDRESS (INCLUDE ZIP CODE) OF ELIGIBLE	RATING	CERTIFICATE NO.	DATE OF CERTIFICATE
r. Richard J. DeFina 20-31 Union Turnpike lushing, N. Y. 11364	101 CP	C74-4424	6/24/74
	POSITION: Electronic Technician, GS-856-4		
	TITLE OF EXAMINATION AND GRADE: Technical Assistant Ann. #409		

r the reasons stated below (check appropriate block):

We object to the eligible named hereon.

We propose to pass over the preference eligible named hereon and select a nonpreference eligible.
(*Note:* The Veterans' Preference Act gives the preference eligible the right to request and review the reasons. The reasons, therefore, cannot be considered confidential.)

ASONS (State reasons specifically and clearly so that the significance is readily apparent):

SEE ATTACHED

(Attach additional sheet if necessary)

ATURE AND TITLE OF AGENCY APPOINTING OFFICER

Federal Aviation Administration
Eastern Region, Federal Bldg.
JFK Int'l Arpt.
Jamaica, N. Y. 11430
ATTN: Herbert K. Wilson Jr., AEA-14

NAME OF AGENCY, CITY, STATE, AND ZIP CODE

(Type return address for use in window envelope)

A 7a

1. Mr. Defina's "No" answers to items 30 and 31 of his SF-171 Personal Qualifications Statement of 11-11-74 upon vouchering proved to be false statements and subject to the penalties as described on the bottom of page 4 of the SF-171 and as contained in the U. S. Code, Title 18, Sec. 1001.

   Copies of employment inquires ____ from the following companies indicate that he was discharged

   Other vouchers show that either he was not able to hold a job and was fired or that he resigned under fire with less than satisfactory performance. Most employers indicated that they would not rehire him. His false statements indicate lack of credibility.

2. His employment record of 49 positions in twelve years is not that of a stable person who will be able to sustain the advanced responsibility of the position in its final stage, to have the authority to close down an airport due to electronic failure and to see to it that outages are of minimum duration. This calls for an emotionally sound individual who can display the calmness and professional tools to learn and apply his acquired skills.

3. Mr. Defina's attitude in telephone conversations with and in which rude, loud and baseless accusations were made in a vulgar manner leads us to the conclusion that he is a very high strung and nervous individual who would not be able to get along with his fellow workers, nor will he be able to, as some of his vouchers say, perform simple tasks to completion and to the satisfaction of his supervisors.

ccc
1633

A 8

6-11-75

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RICHARD J. DE FINA,

Plaintiff,

-v-

DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION, et al.,

Defendants.

ANSWER

75 Civ. 1526 (WK)

PRO SE

Defendants by their attorney, Paul J. Curran, United States Attorney for the Southern District of New York for their answer to the complaint:

1. Deny the averments set forth in paragraph 1 of the complaint except admit that on or about March 21, 1975 the United States Civil Service Commission made available to plaintiff pursuant to the Freedom of Information Act and at his request the material set forth in Exhibit A to the complaint.

2. Deny the averments set forth in paragraph 2 of the complaint.

3. Deny knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraph 3 of the complaint.

4. Deny the averments set forth in paragraph 4 of the complaint except admit that L. J. Churchville and Dennis S. Feldman are Assistant Administrator and Deputy Assistant Administrator respectively of the Office of Information Services of the Federal Aviation Administration.

5. Deny the averments set forth in paragraph 5 of the complaint.

NLG:ccc
75-1633

AS AND FOR A FIRST
COMPLETE AFFIRMATIVE DEFENSE

6. The complaint fails to state a claim over which this Court has jurisdiction.

AS AND FOR A SECOND
COMPLETE AFFIRMATIVE DEFENSE

7. The complaint fails to state a claim upon which any relief can be granted.

AS AND FOR A THIRD
COMPLETE AFFIRMATIVE DEFENSE

8. The individually named defendants acted within the scope of their respective official capacities and are not proper parties to this action.

AS AND FOR A FOURTH
COMPLETE AFFIRMATIVE DEFENSE

9. The complaint fails to state a claim upon which any relief can be granted on the ground that the information which plaintiff seeks is exempt from disclosure pursuant to the Freedom of Information Act.

WHEREFORE, defendants demand judgment dismissing this action in its entirety together with the costs and disbursements of this action and such other and further relief as is just.

Dated: New York, New York
June 10, 1975.

PAUL J. CURRAN
United States Attorney for the
Southern District of New York'
Attorney for Defendants

By: _____
NATHANIEL L. GERMER
Assistant United States Attorney
Office and Post Office Address
United States Courthouse Annex
One St. Andrew's Plaza
New York, New York 10007

TO: RICHARD J. DE FINA
220-31 Union Turnpike
Flushing, New York 11364

A 10

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

- x

RICHARD J. DE FINA,

Plaintiff,

75 CIV 1964 CWK.

v.

AMENDED COMPLAINT

VIRGINIA M. ARMSTRONG, individually and as Regional Director of the United States Civil Service Commission; Donald J. Devlin, individually and as Assistant Executive Director for Freedom of Information; ROBERT J. DRUMMOND, Jr., individually and as Director, United States Civil Service Commission, Bureau of Personnel Investigations, JOSEPH F. LA ROCCO, individually and as Personnel Officer, United States Department of Justice, Drug Enforcement Administration, PHILIP V. MONASTERIO, individually and as Associate Regional Director, United States Department of Justice, Drug Enforcement Administration; EDWARD H. LEVI, individually and as Attorney General, FELICE PEPE, individually and as Chief, Medical Administration and "JOHN DOE" #1 and JOHN DOE #2, accusers, whose true names are presently unknown,

Defendants.

- x

On or about March 24, 1975, the defendant, Virginia M. Armstrong, sent to plaintiff Ex A and B attached hereto, which exhibits contain highly libelous statements against the plaintiff among which libels contains a statement, that statements plaintiff made "proved" to be false statements and subject to the penalties as described ....in the U.S. Code, Title 18 Sec. 1001. That defendant, VIRGINIA M. ARMSTRONG, with others ignored that part of the Veterans' preference Act which gives the United States Civil Service Commission the right to "require more detailed information in support of the passing over of the preference eligible" which plaintiff is. The

Veterans Preference Act also gives the preference eligible the right to review the reasons, which the defendant, Virginia Armstrong, has refused to do. The defendant Armstrong acting in concert with other members of the Civil Service Commission sustained a wrongful, false and malicious libel concerning the plaintiff while the plaintiff was attempting to be heard regarding the libel. The defendant LaRocco libeled the plaintiff in a letter dated Dec. 10, 1973 and the defendant Monastero libeled the plaintiff in a letter dated Jan. 4, 1974. Both defendants LaRocco and Monastero may have repeated these libels against the plaintiff in the 47 page report received by the plaintiff May 14, 1975 from defendant Drummond.

The above mentioned 47 pages were sent by defendant, Robert J. Drummond, Jr., U.S. Civil Service, deleted of all names of libelers. These deletions and other libelous files still withheld from plaintiff was approved by the defendants Edward N. Levi and Donald J. Miglin, concurred in by Robert J. Drummond. The 47 pages contain not only libels, but criminal statements to destroy lives by lies, by those entrenched in power and ignoring the rights of the plaintiff be they under Title 5 Sec. 552, constitutional or otherwise. They have actually made up statements that an attorney made herself insane and that she stated I also was insane, etc.. These persons must become known and punished. Justice demands this.

SECOND: This Court has jurisdiction under the Freedom of Information Act, Title 5 Section 552 of the U.S.C. under the Constitution of the United States, and the Civil Rights Law.

THIRD: My name is Richard J. Hoffman and I reside at 220-31 Union Turnpike, Flushing, New York.

The defendant, VIRGINIA M. ARMSTRONG, is Regional Director of the United States Civil Service Commission located at 26 Federal Plaza, New York City, New York.

The defendant, FELICE FAVA, Chief, Medical Administration refuses to honor the demand served upon him, under Title 5, section 322 of the U.S.C. as to how many unauthorized or authorized person or persons that he gave plaintiff's medical file to. Address, Veterans' Administration, 252 Seventh Avenue, N. Y. N. Y.

The defendant, DONALD J. DIBLIN, Assistant Executive Director for Freedom of Information, for the United States Civil Service Commission, Washington, D. C.

The defendant, JAMES T. LA ROCCO, Personnel Officer for Drug Enforcement Administration, 555 West 57 Street, N.Y. N.Y.

The defendant, MARK F. ROSENBERG, Associate Regional Director for Drug Enforcement Administration, 555 West 57 Street, New York, New York.

The defendant, ROBERT J. DRUMMOND, United States Civil Service Commission, Personnel Investigations, Washington, D. C.

The defendant, EDWARD H. LEVI, Attorney General, Washington, D. C.

The defendants, John Doe #1 and John Doe #2 are assumed whose identities are now concealed by all the beforementioned defendants.

FOURTH:: I request the Court for a demeratory judgment on my right to see all my files unsolated and which right under the Freedom of Information Act was denied me by the defendants, although legal demands were made upon them under Title 5, Section

552 U.S. Code and all administrative remedies have been exhausted. In addition plaintiff requests damages under this law as the material compiled is false, criminally libelous and perpetuated in files to destroy plaintiff's life, reputation and fortune, and so known to be the fact, by all of these defendants.

2. I request a preliminary and permanent injunction enjoining these defendants from continuing to deny plaintiff access to his files or copies of his files, undeleted and restraining them from uttering, publishing or maintaining files containing the criminal libels now in these secret files withheld from the plaintiff and the deleted material, and further that I receive and read the whole file or files these defendants compiled on me without any deletions whatsoever. That a subsequent order issue from this Court ordering the files containing the libels to be destroyed.

3. An order that this cause receive expediated treatment under Title 5, Section 552.

4. Damages for lost of civil service employment based on the false, libelous and criminal statements that were the result of the conspiracy of all of the defendants.

FIFTH: I wish the identities of my alleged accusers as deleted from Exhibits attached hereto. I want all my fi files from the defendants, including the reasons that the defendants, Monastero and La Rocco, gave for not employing me for the position with the Drug Enforcement Administration back in 1973

Expunge from the records and files of the United States

Civil Service Commission and from the records and files of the other defendants' agencies, all derogatory libelous matter, which these defendants put in their files withoug giving the plaintiff an opportunity to know about or be heard on. To remove from plaintiff the threat that he can be punished for a crime under the U.S. Code that he never even knew he had been accused of all in violation of his right to due process of law, for damage to his reputation and keeping him mostly unemployed for years to his damage in the sum of $1,000,000.00.

Richard J. DeFina

RICHARD J. DE FINA

Sworn to before me this

1st day of May 1970

Madeline E. DeFina

MADELINE E. DEFINA
NOTARY PUBLIC, State of New York
No. 41-5059435 - Queens County
Term Expires March 30, 1972

BEST COPY AVAILABLE

UNITED STATES CIVIL SERVICE COMMISSION

A 15a

TO THE APPOINTING OFFICER:

File: [redacted]

Date: 2/3/73

OBJECTIONS TO ELIGIBLE

☒ The objection is sustained and the eligible is removed from consideration.

☐ The objection is not sustained for the reasons shown below under remarks.

REASONS FOR PASSING OVER A PREFERENCE ELIGIBLE

☐ The reasons for passing over the preference eligible and tentatively selecting a nonpreference eligible are sufficient in the judgment of the Commission. The nonpreference eligible whom you tentatively selected may be appointed. If this form was submitted with the original certificate report, such certificate report of tentative selection will be considered as final, unless you later submit an amended report showing other action.

☐ The reasons which you submitted for passing over the preference eligible and tentatively selecting a nonpreference eligible are not sufficient in the judgment of the Commission. (See remarks below.) If this form was submitted to the Commission with the original certificate report, appointment of the preference eligible in place of or in addition to the nonpreference eligible should be reported to the certifying office by an amended certificate report. If you still desire to appoint the nonpreference eligible, you must furnish the Commission more detailed information concerning your reasons for passing over the preference eligible. Your additional statement should be submitted in triplicate attached to this copy of this form. Unless you reserve a position for the preference eligible, you may not appoint the nonpreference eligible while decision by the Commission on your second statement is pending. If your reasons are again found to be insufficient, 5 U.S.C. 3318 prohibits you from passing over the preference eligible and appointing the nonpreference eligible.

REMARKS:

UNITED STATES CIVIL SERVICE COMMISSION

FORM 62 STATEMENT OF REASONS FOR OBJECTING TO AN ELIGIBLE OR

A 16a

U. S. Civil Service Commission
New York City Area Office
Federal Building
26 Federal Plaza
New York, New York 10007

Submit in Triplicate to the Area Office which issued the Certificate; or in the absence of a Certificate, to the office which has examining jurisdiction.

INSTRUCTIONS TO APPOINTING OFFICER FOR USE OF THIS FORM

An *objection* by an appointing officer to an eligible on a certificate, when sustained by the Commission, eliminates that gible from the group of three from which the appointing officer is entitled to select, and brings the next available eligi- within reach. A *veteran passover* is the act on the part of the appointing officer of selecting a nonpreference eligible thin a group of three when there is a higher ranking preference eligible within the group. The nonpreference eligible ected may not legally be entered on duty unless the Commission finds that the reasons for passing over the preference gible are sufficient, or unless a vacancy is reserved for the preference eligible pending receipt of the Commission's deci- n. Similar provisions apply to temporary appointments made outside of registers. (See 5 U.S.C. 3318. Procedures and guides e in Chapter 332 of the Federal Personnel Manual.)

This form should be used to object to an eligible or to request authority to pass over a preference eligible and appoint nonpreference eligible. One copy will be returned to you with the Commission's decision shown on the reverse. You uld submit with the form all available information and documents considered pertinent to the case, such as application, ition description, medical certificate, service record, etc.

E AND ADDRESS (INCLUDE ZIP CODE) OF ELIGIBLE	RATING	CERTIFICATE NO.	DATE OF CERTIFICATE
r. Richard J. DeFina 20-31 Union Turnpike lushing, N. Y. 11364	101 CP	C74-4424	6/24/74
	POSITION: Electronic Technician, GS-856-4		
	TITLE OF EXAMINATION AND GRADE: Technical Assistant Ann. #409		

r the reasons stated below (check appropriate block):

We object to the eligible named hereon.

We propose to pass over the preference eligible named hereon and select a nonpreference eligible.
(*Note:* The Veterans' Preference Act gives the preference eligible the right to request and review the reasons. The reasons, therefore, cannot be considered confidential.)

ASONS (State reasons specifically and clearly so that the significance is readily apparent):

SEE ATTACHED

(Attach additional sheet if necessary)

TYPED NAME AND TITLE OF AGENCY APPOINTING OFFICER

Federal Aviation Administration
Eastern Region, Federal Bldg.
JFK Int'l Arpt.
Jamaica, N. Y. 11430
ATTN: Herbert K. Wilson Jr., AEA-14

NAME OF AGENCY, CITY, STATE, AND ZIP CODE

(Type return address for use in window envelope)

A 17a

1. Mr. Defina's "No" answers to items 30 and 31 of his SF-171 Personal Qualifications Statement of 11-11-74 upon vouchering proved to be false statements and subject to the penalties as described on the bottom of page 4 of the SF-171 and as contained in the U. S. Code, Title 18, Sec. 1001.

   Copies of employment inquires from the following companies indicate that he was discharged

   Other vouchers show that either he was not able to hold a job and was fired or that he resigned under fire with less than satisfactory performance. Most employers indicated that they would not rehire him. His false statements indicate lack of credibility.

2. His employment record of 49 positions in twelve years is not that of a stable person who will be able to sustain the advanced responsibility of the position in its final stage, to have the authority to close down an airport due to electronic failure and to see to it that outages are of minimum duration. This calls for an emotionally sound individual who can display the calmness and professional tools to learn and apply his acquired skills.

3. Mr. Defina's attitude in telephone conversations with and in which rude, loud and baseless accusations were made in a vulgar manner leads us to the conclusion that he is a very high strung and nervous individual who would not be able to get along with his fellow workers, nor will he be able to, as some of his vouchers say, perform simple tasks to completion and to the satisfaction of his supervisors.

A18a

9 MAY 1975

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
TO BE OPENED BY ADDRESSEE ONLY

Ms. Madeline E. DeFina
Attorney at Law
220-31 Union Turnpike
Flushing, New York 11364

Dear Ms. DeFina:

In response to your letter of April 7, 1975 and receipt of your check in the amount of $7.70 attached herewith is a copy of the information contained in the investigative file of your client, Richard J. DeFina, pursuant to Public Law 93-502, effective February 19, 1975.

The attached reports of investigation are exact copies of the original reports of investigation conducted by the U.S. Civil Service Commission. The only data that has been deleted is information which is exempt from disclosure under Section 552(b) (copy previously furnished).

Sincerely yours,

5/9/75

Robert J. Drummond, Jr.
Director

Enclosures:
Request to conduct Full Field investigation dated 7-10-73
Report of National Agency Check dated 10-11-73
4 CSC Reports of Investigation (1973)
Request to conduct Full Field investigation dated 1-13-71
Request to cancel Full Field investigation dated 2-10-71
Report of National Agency Check dated 2-22-71
6 CSC Reports of Investigation (1971)

INP:CJTrapp:rlk 5-7-75

DEPARTMENT OF JUSTICE

Memorandum

REPORT REQUIRED

A19a

TO : Mr. Ritchey Williams, Chief
Division of Reimbursable Investigations
U. S. Civil Service Commission

DATE: 07-10-73

FROM : James A. Morgan, Security Officer
Drug Enforcement Administration

3123.74. 796

SUBJECT: Request for Full Field Investigation

Name, Date of Birth, and Location

De Fina, Richard J. 01-12-36 NY

USCSC B.P.I.
RECEIVED
JUL 20 1973
DIV. OF REIMBURSABLE INVESTIGATIONS

Position: Radio Operator

[XX] Please initiate the full field investigation in this matter and forward copies of the reports to this office.

[XX] Please return the National Agency Check prior to completion of full field investigation.

Standard Forms 36 are attached. Please return the original signed copy with the final report of this investigation.

[ ] National Agency Check completed _____

[ ] Please institute a National Agency Check only on this individual whose Standard Forms 86 and Fingerprint Charts are attached.

[ ] Please discontinue the full field investigation in this matter. SF 86 submitted with our request should be returned to this office.

FOR UNITED STATES GOVERNMENT USE ONLY

UNITED STATES CIVIL SERVICE COMMISSION

A20a

BUREAU OF PERSONNEL INVESTIGATIONS
WASHINGTON, D.C. 20415

REPORT OF NATIONAL AGENCY CHECK

NAME	DATE OF REPORT
DEFEA, Richard Joseph	10-11-73
	DATE OF BIRTH: 1-12-36
POSITION: Radio Oper.	PLACE OF BIRTH: Brocklyn, N.Y.
AGENCY: Department of Justice - DEA	CSC SERIAL NO.: 3.23.74.796

A National Agency Check has been conducted in this case and the results are indicated below.

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[x] FEDERAL BUREAU OF INVESTIGATION

- [x] No Criminal Record
- [ ] Unclassifiable fingerprints returned to agency on _____. When new fingerprints are received they will be processed.
- [ ] Fingerprint Chart not submitted for searching
- [ ] Form FD-9 attached. SEE CSC
- [ ] No Investigation Conducted by FBI Pertinent to Your Inquiry
- [ ] No Derogatory Data
- [ ] _____ FBI Report(s) Attached
- [ ] See Remarks

[x] UNITED STATES CIVIL SERVICE COMMISSION INVESTIGATIVE FILES

- [ ] No Record [ ] See Remarks [ ] Nothing Derogatory
- [x] [redacted] _____ CSC Report(s) Attached

[x] HOUSE COMMITTEE OF INTERNAL SECURITY

- [ ] No Record [redacted]
- [ ] Record Attached

[x] DEFENSE CENTRAL INDEX OF INVESTIGATIONS *(Includes Army Investigative Records Repository, Naval Investigative Service Hq ONI, and Office of Special Investigations, Air Force)*

- [ ] _____ Army Report(s) Attached
- [ ] No Record [ ] See Remarks [x] Nothing Derogatory
- [ ] _____ Navy Report(s) Attached
- [ ] _____ Air Force Report(s) Attached

[ ] OFFICE OF COAST GUARD INTELLIGENCE

- [ ] No Record [ ] See Remarks [ ] Nothing Derogatory
- [ ] _____ Report(s) Attached

REMARKS

CIA: no pertinent information.
ADVANCE NAC'S SENT 8-17-73.

Treasury (Customs) Security - no record.
Pending additional coverage in the New York City area#

REPORT IS ATTACHED - SEE BROOKLYN N.Y. REPORT DATED 10/15-10/16/73.

Reported By [redacted]
(CASE CONTROL AND REVIEW OFFICER)

FOR UNITED STATES GOVERNMENT USE ONLY

IN 320
DEC 1[illegible]

FOR UNITED STATES GOVERNMENT USE ONLY A21a

UNITED STATES CIVIL SERVICE COMMISSION

REPORT OF INVESTIGATION

NAME	ADDRESS
RICHARD JOSEPH DIFINA	220-31 Union Tpke., Queens, N.Y.
DATE OF BIRTH: January 12, 1936	PLACE OF BIRTH: Brooklyn, N.Y.
POSITION: Radio Oper.	AGENCY: Justice (Drug Enf. Adm.)
TYPE OF CASE: Full Field	CSC CASE SERIAL NO.: 3.23.74.796
PLACE(S) OF INVESTIGATION: New York, N.Y. Brooklyn, N.Y.	PLACE(S) OF RECORD SEARCH
DATE(S) OF INVESTIGATION: Aug. 8, 13, 14, 15, 25, 1973	NAME OF INVESTIGATOR: [redacted]

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The testimony of all witnesses is given in substance unless indicated by quotation marks.

SYNOPSIS

Period covered: January, 1971 to present. Bureau of Vital Statistics check at New York, N. Y. revealed no record of birth of subject on date listed in all statements. Complete local Law Enforcement files not available. Date of birth not corroborated. Place of birth not corroborated.

NEW YORK, N. Y.

[redacted]

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UNITED STATES DEPARTMENT OF TREASURY. Bureau of Customs, Bowling Green.
Record information furnished by [redacted]

We do not now have the Official Personnel Felder of Mr. Richard Joseph Defina at this location, but maintain a file card on his employment.

He received a Career Conditional Appointment on January 22, 1971 and resigned on February 10, 1971. His date of birth is January 12, 1936, and his Social Security Number is 108-28-5898. His home address is listed as 220-31 Union Turnpike, Queens, N. Y. This is the extent of information available that we have concerning Mr. Richard Joseph Defina.

[redacted]

I have not seen or been in contact with Richard Joseph Defina for approximately [redacted] years. This was approximately, I believe, the time he [redacted] began playing tennis on a court in Brooklyn, Jim LoIacono's Tennis Court, about 10 to 15 years ago. [redacted]

I would say that I have not seen Richard Joseph Defina since about [redacted] he got out of school and went into the Coast Guard or the Army. I was not sure, and I am still not sure, which branch he entered. I believe he did tell me at the time that his mother was a [redacted]

[redacted]. It is difficult for me to describe Richard Defina in regard to his character, and his morals, but I will try to describe him for you in a manner in which I observed him.

Richard Joseph Defina was a strong player. Richard tried to return every ball, and he would get upset rather easily, [redacted]. He would describe his miss to a fault on his part; rather than a good shot [redacted] After he did miss the shot, he would have some unusual excuses, [redacted] or some other comment. On the whole, it was an extremely strange reaction for a person who constantly plays tennis. [redacted]

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[redacted]. I gathered that he did not have too many interests, but I never went out with him socially, so it is more impression rather than fact I am transmitting. I would say as a tennis player, he was extremely strong, and he had a great deal of endurance and vigor. I believe he had another relative who was in New York City politics at that time, and I believe his name might have been Defino. I am not really sure concerning the branch of politics this relative was involved in.

I did not know of any particular employment Richard Joseph Defina was engaged in, but during that time I believe he was only going to school. As I mentioned previously, I have had no contact with him since approximately [redacted]. Whether or not he had the ability to get along well with others, I really don't know, but toward the end of our relationship, it was becoming a bit strained on my part to get along with him. He was not the normal type of tennis player [redacted] and he showed it in his behavior. He was always an honest and trustworthy person in my presence, but I could not comment about his conduct elsewhere. I know of no problems financially that he had, or whether he was irresponsible in his debts. I do not know of any police problems he may have had. He was a very strong tennis player, and to be so, you must be in sound physical health. I really do not wish to comment on his mental health at the time. I never saw him in a condition, which would suggest that he used alcohol excessively, or did I see him act as though he was taking drugs for any reason. Since I did not socialize with him, I really know nothing about his activities other than his interest in tennis. I do not wish to comment on whether I believed him to be emotionally stable, for his behavior was unusual, and he may have since changed.

I was given no reason to doubt Richard Joseph Defina's loyalty to the United States, and I would not recommend Richard Joseph Defina for a position critical to the national security.

BUREAU OF VITAL STATISTICS, 125 Worth Street. Record information obtained by [redacted]

There is no record of a birth of Richard Joseph Defina in the borough of Brooklyn on January 12, 1936. Additional checking of birth registers for other boroughs of New York City revealed that no individual with the name Richard Joseph Defina was born on January 12, 1936, and was living in any of these boroughs.

[redacted]

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POLICE DEPARTMENT, NEW YORK, N. Y. (also includes Brooklyn, N. Y.):

No Record. [redacted]

INVESTIGATOR'S NOTE: It is the policy of the New York City Police Department not to search its arrest records.

BROOKLYN, N. Y.

[redacted]

I first came in contact with the Defina family and Richard Joseph Defina, about [redacted] They lived then on 101 Street in Brooklyn. [redacted] the building that [redacted] owned there and [redacted] They now live at 220-31 Union Turnpike. I see the family several times a year on [redacted] but those are the only times I come in contact with Richard Joseph Defina.

When [redacted] at the Defina home, Richard Defina does his best to be of help; in fact, the entire family is of great help. The daughter, I believe, is older than her brother, Richard Defina, [redacted] Richard Defina appears to be a conscientious person who likes to stay with a job to get it done. I gathered this from observations I had of him [redacted], so you see this is the time when we can discuss issues, and get to know one another. As I stated previously, he impressed me as a conscientious and concerned person, who is very industrious. He is the type of fellow who will prepare for a given task and extend himself to fulfill his obligations.

I believe Richard Defina is a steady person, for I have never seen him fly off the handle. This is due in part, to Mrs. Defina. The mother always seemed to keep a strict control over the children. I believe it was a true family, and a good home. She never took any nonsense from the children, [redacted] I never met any of Richard Joseph Defina's friends, but, as you understand, I saw him seldom. I believe he is honest and trustworthy for a number of reasons. His mother, Madelaine Defina, is an attorney. [redacted]

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[redacted]. Other than knowing Madelaine Defina deals with the Bankers Trust Company, I know of no financial debts she or Richard Defina have. I don't believe the mother would have permitted the family to become indebted to anyone. I know of no police problems Richard Defina had over all the years that I have known him; further, he always appeared to be in good physical health. There is no time that I observed him that his behavior would suggest he used alcohol excessively or took drugs. He was never that type of boy, or now man.

Richard Joseph Defina was always proud of the devices [redacted] which he designed and built. I thought they were well done mechanically. Especially during his residence at the Union Turnpike address, [redacted] he could usually tell me what he believed [redacted] and would then show the new electrical devices he had built. [redacted] so that his expertise in the area allowed him to understand our problems. His devices include a radio and amplification equipment, and others consisted of wearing and component parts. Lastly, he told me that he had been looking for work where his efforts would be appreciated by the company, and that this he required in order to enjoy his job. He did mention that he did give up a number of positions because of this, and he said that he had some other problems as well. I am sorry, but I don't remember where he worked. He told me, but it has been some time since we have spoken.

I believe that Richard Joseph Defina is a loyal citizen of the United States, and I would recommend him for a position, which would involve and may be critical to national security.

[redacted]

[redacted] At that time, he was living at 315 101 Street and around 1966, I believe he moved to 220-31 Union Turnpike. The mother's name is Christine Defina, and I believe, rather, I know she is a lawyer. I have [redacted] and I would say I see Richard Defina about [redacted] times a year.

[redacted] the Defina home at 101 Street, the house was full of FCC licensed gear. This was, and is, true of the Union Turnpike address. I could not specify the dates, but I know that Richard Defina was attending engineering school at some point. [redacted]

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[redacted], he was usually there, but I could not remember his name. I seem to remember only the son and Mrs. Defina living at the Union Turnpike address, for I never saw anyone else at that address. The mother is in her 60's, and she is a nice, soft-spoken woman. It was a funny thing, but I never knew a Mr. Defina. It seems rather odd to me that there was never a Mr. Defina in all the time I have known them.

Richard Defina appeared to me to be very intelligent, and when we [redacted] He seemed to have a certain gift for mechanical and electrical work. As far as I am concerned, he had a beautiful personality. [redacted] he and his mother treated you like a real person. Believe me, this is unusual in my [redacted] I never heard about Richard Defina having problems with the police and the way they treated us would make me doubt I had missed any that he might have been involved with. Mrs. Defina's office was on the upper level of the house and Richard Defina had prepared a work shop for himself in the basement. I would mention that upon further thought concerning the engineering school, there was an awful lot of NSA literature spread around at both the 101 Street address and the one on Union Turnpike. Lastly, there was never a question of money with the Defina's; [redacted]

I believe Richard Defina is both honest and trustworthy [redacted] He always appeared to be in good physical and mental health, when I saw him. I never saw him drink any alcohol, and something else was peculiar about the Defina home. Not in a bad sense was it peculiar, but in regard to today's standards it was, for when you go into a home today, a man, if he offers you a drink at all, will offer you alcohol. In the Defina home, I have been offered only soda or coffee during our entire relationship. I believe the Defina's got along well with their neighbors, but we have no account other than the Defina's in the general location of their new address, and this is pure speculation on my part. I never knew of any employments Mr. Defina was engaged in.

I believe that Mr. Richard Joseph Defina is a loyal citizen of the United States. I do recommend him for a position sensitive to national security.

NY:gg:9/6/73

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UNITED STATES CIVIL SERVICE COMMISSION

REPORT OF INVESTIGATION

NAME	ADDRESS
RICHARD JOSEPH DEFINA	220-31 Union Turnpike Queens, New York
DATE OF BIRTH January 12, 1936	PLACE OF BIRTH Brooklyn, New York
POSITION Radio Oper.	AGENCY Justice
TYPE OF CASE Full Field	CSC CASE SERIAL NO. 3.23.74.'96
PLACE(S) OF INVESTIGATION Kings Point, [redacted] [redacted] Flushing, New York	PLACE(S) OF RECORD SEARCH Mineola, New York City, New York
DATE(S) OF INVESTIGATION August 15,17; September 10,11,12,13,14,17,18, 1973	NAME OF INVESTIGATOR [redacted]

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The testimony of all witnesses is given in substance unless indicated by quotation marks.

SYNOPSIS

Period covered: January, 1971 to the present. No derogatory information was developed. Complete local police files were not available, those searched contained no record. Subject's date of birth corroborated through the U.S. Merchant Marine Academy, Kings Point, New York. Investigation resolved discrepancy in regard to Subject's parentage. In the course of an interview with Mrs. Madalina Defina, listed by the Subject as his sister, she acknowledged that she was in fact his mother.

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CSC FORM 366

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KINGS POINT, NEW YORK

[redacted]

KINGS POINT MERCHANT MARINE ACADEMY, Civilian Personnel Office, Steamboat Road, Records supplied by [redacted]

Our records indicate that Richard Joseph Defina worked for this organization for a short time in 1971. His official 201 File was forwarded to the Federal Records Center, St. Louis, Missouri on August 2, 1971. Our civilian personnel record card indicates that Defina was employed here from May 2, 1971 to May 26, 1971 as a GS-4 Library Technician. His date of birth is listed as January 12, 1936 and his Social Security Number is listed as 103-28-5898. The record indicates that he resigned, there is no reason given for his resignation.

I cannot recall anything about this individual, I do not recall ever meeting him.

[redacted]

I remember Richard Defina quite well. He worked [redacted] for two or three weeks in the spring of 1971. Richard was referred to us by the Civil Service Commission as the result of an announcement for a position as Library Technician, GS-4. [redacted] interviewed Richard and found that his entire background was in Electronics [redacted] explained to him that this was a Library Technician job, [redacted] all he had noticed on the announcement was the word Technician and assumed it had been an Electronic Technician's position. He indicated [redacted] that he wanted a job and that he would be very happy to try the position of Library Technician. [redacted] took him through the Library and explained exactly the duties and responsibilities of this position.

Richard came to work for us and things went along quite well. He was regular and punctual in attendance, did his work, and seemed to get along with the staff and the students.

One day, almost out of the blue, he came in [redacted] and asked when he was going to get the Electronics position. [redacted] did not know what he was talking about. [redacted] got a telephone call from a woman who identified herself as his mother and she indicated that she was an Attorney and that Richard was to have an Electronics position. [redacted] could not understand where he got this idea. When Richard Defina came to us, the position was thoroughly explained to him and I am certain that he knew that there was nothing in the position that was remotely involved with Electronics.

[redacted] the position was that of a Library Technician, that [redacted] no Electronic Technician position avail-

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able, [redacted] never been involved in any sort of Electronics program [redacted] shortly after that, within a day or so, Richard resigned. The [redacted] a bit of a mystery to me, to this day I cannot understand how they ever thought that there was anything in this position that involved Electronic work. The position was clearly and carefully explained to Defina as that of a Library Technician.

I had no complaints about this young man, when he was here he did a job satisfactorily and if he was willing to take a job as a Library Technician, [redacted] would reemploy him. I saw nothing objectionable in his character or reputation, his habits and morals appeared to be satisfactory. In the short time he was here, I had no reason to question his honesty or integrity. He impressed me as being reliable and trustworthy. Because of the fact that he was only here a short time, I really do not believe I can give you any additional information concerning him. I do not know of any clubs or organizations to which he belonged, and I do not know any of his friends and associates. He appeared to be in good physical and mental health.

I can make no further comments concerning this young man.

[redacted]

NASSAU COUNTY POLICE DEPARTMENT, MINEOLA, NEW YORK. (Covering Kings Point, New York).

No record.

[redacted]

[redacted]

[redacted]

Richard Defina was appointed to the position of Sky Marshal at this office on January 24, 1971. He was immediately sent to Washington, D.C. to attend a school. I never met this young man and know nothing about him. He was never in contact with anyone at this station since he was never assigned to this station. The memorandum that I have indicates that he voluntarily resigned from the service on February 10, 1971. When he was informed from the school, that he failed to qualify for the position because of eye difficulties. He was released in Washington and never returned to New York. I can give you no further information about this young man.

[redacted]

[redacted]

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[redacted] in 1955 at Mercer Field in Mississippi. It was in December, 1955 or January, 1956. [redacted] assigned [redacted] to an Electronics School at that base. [redacted] there for about [redacted] months [redacted] completed the Electronics Training, [redacted] transferred to Maryland. [redacted] stationed at [redacted] bases in Maryland although because of the work we were doing we had regular and frequent contact. Then, I believe [redacted] was transferred to [redacted]

I know nothing about him that is derogatory. He is single and lives with his mother who is an Alderman. I believe they live on Union Turnpike in Flushing. [redacted]

During the time he was in the service, he had no problems that I knew about. I believe he got out of the service as a result of medical problems, but I am not certain. He has worked in Electronics since he got out of the service. I know he has some formal education, I believe he has a college degree, and has worked for Electronic firms around the New York area. I know that he likes to play tennis and is very interested in hi-fi equipment and that sort of thing. He also does television maintenance in his spare time.

I know nothing about Richard Defina that could be in anyway considered derogatory. I always got along well with him. I never saw anything objectionable in his character or reputation. His habits and morals appear to be satisfactory. He never used intoxicants or narcotics. From my experiences with him, I found him to be honest, dependable, reliable and trustworthy. He was always in good physical and mental health. I understand that he had some problems with his health around the time he got out of the service, I do not know the exact nature of these problems.

I do not know of any clubs or organizations to which he belonged. I do not know any of his friends or associates. I would have no reason to question his loyalty to the United States government. I believe he is a loyal American citizen. I would recommend him for a position of trust involving our country's security.

FLUSHING, NEW YORK

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[redacted]

MRS. MADELINA DEFINA, Attorney At Law, 220-31 Union Turnpike.

My brother Richard desperately needs a job. He has been out of work for a year and a half to two years. During the time he has been out of work, he has helped me in my law office. He does investigation work for me, interviews clients, files papers in courts and does a great deal of the leg work that I am no longer able to accomplish. However, I am greatly concerned about him because I am 67 years of age and will retire soon. Before I retired, Richard must have a firm and secure position. Life has been very unkind to Richard. He has had many fatal blows dealt to him in his 37 years. The last full time position he had was at Kings Point Merchant Marine Academy. He was hired there as an Electronics Technician. It was one of the cruel blows that have caused him to become so bitter. He filed for a position as an Electronics Technician which is his field. One of the problems he has had over the years is that he has always taken jobs beneath him. He was told he was to be an Electronics Technician at the Academy and all they did with him was to put him in a room with a lot of magazines and told him to classify the magazines. He had no background in this sort of thing. Rather than fight the Academy, I told him to resign.

Richard's trouble all started because he was too patriotic. In his younger days, when he got out of high school, instead of going to college like I want him to do, he wanted to enlist in the service. He wanted to serve his country. I recall prior to his graduation from high school on a number of occasions, the Recruiting Sergeant called me and asked me if I would sign for Richard to go into the service early. While I wanted him to go to college, I felt that at least if he had finished high school he could go to college when he returned.

He finally enlisted in the Army shortly after he graduated from high school. He enlisted under some special program whereby he would be permitted to go to school. The first thing he knew, they had shipped him to England and you know you cannot go to college in England. He was later shipped to Germany and of course in Germany it was impossible for him to go to school because he did not speak the language. This is just another one of the bad breaks that Richard has had over the years. His employment history is replete with this sort of thing. At any rate, when he got out of the service, he was broken in spirit and health. His eyes were bad and he was having trouble with his general health. He stayed home from school for a while and then entered New York City Community College in Brooklyn, where he received an AAS Degree. After that, he went to work for various Electronic companies around New York and continued to go to school. IT treated him badly. He finally had to resign because everyone was ganging up on him. I heard later on that IT told some other employers that Richard was unsatisfactory. I forced them to give me a letter saying that his employment was satisfactory. I threatened to sue them if they said anything bad about Richard. He had additional jobs with Hallcrafters

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Instrument, where he sat at a bench and day and had nothing to do. He finally quit that job. He also worked for the General Instrument Company. [illegible] tenses. They told him he was going to be a Field Engineer, but the personnel people would not assign him to that type of work. He finally had to quit that job. He has had a number of jobs where people have given him the wrong information and then he has had to quit.

I have a number of letters here from various people showing what a fine boy Richard is. I want you to particularly notice the letter from ITT which says that Richard's services with that company were satisfactory.

The letter from the Most Precious Blood Convent in Brooklyn, is from a nun who is a friend of mine. I was a member of that community many years ago. I have been friendly with that nun all of my life. She refers to Richard as my son in that letter because Richard is my son. It is a long and involved story. I graduated from St. John's Law School in 1936. I was admitted to the New York State Bar in 1938. I had very many problems with the law profession. As a woman, I was looked down on as an Attorney. In the early 1939's, I married a man who turned out to be a fiend. After we had children, he told me that he did not want them. He wanted to get rid of them. The marriage broke up and we were divorced. I had a breakdown and was institutionalized for a period of time. In order to prevent my former husband from getting the two children, I gave custody of the children to my parents. Both Gloria and Richard afterwards were known as my brother and sister. I brought them up that way for many years. It is only in recent years, since the threat of my husband's taking custody of the children is gone, because of the children's age, that I have let anyone know that Richard and Gloria are my son and daughter and are not my brother and sister. I do not know why anyone should hold it against them that they have been held out as my son and daughter. It is not unusual. I am a very honorable person and certainly if I want to treat them as my son and daughter, or as my brother and sister, it is nobody's business but mine. I have admitted to practice in almost every responsible court. I am entitled to practice before the United States Supreme Court, all of the courts in the State of New York, and before Military Tribunes and various Federal Administrative Courts. I have had some trouble with the Military Courts of Justice, and my practice there has been limited. I have always attributed part of Richard's problems to my difficulties with the Defense Department. I went around the country as an [illegible] defending many young men from the unfounded charges of the Defense Department. Richard, being an Electronics Technician, was involved in a great deal of work for the Defense Department. I think that people in the Defense Department have tried to get back at me through Richard.

I have never made any friends in the government, I have always been fighting the establishment. Richard got a job a few years ago as a City Marshal. He went to school and was outstanding in the class.

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He was one of the class leaders. At the last minute, they made up some story about his eyes being bad and they put him out of the program. More recently, he applied for a job [redacted] took him into a room and told him to list all of his jobs. Naturally, he could not do this from memory. He was told to call me on the telephone and get the jobs. I was not able to locate his records. As a result, they have held him up and tried to keep him back.

For this reason, I wrote to a Congressman and now the matter is under investigation. It seems that there is someone trying to get back at me through Richard.

Richard is a fine young man. All he wants to do is get a job so that he can get married and have a family. I know that this being unemployed for such a great length of time is hurting him badly. Everyone who looks at his resume wonders why he has been out of work for so long. I hope that he can get a job soon because he really deserves it. He served this country faithfully and well in the Air Force. He has worked hard to try and get himself an education. He is a fine boy, a clean living young man. I am proud to be his mother.

I cannot tell you any close friends or associates that Richard has in this community. As far as I am concerned, people in this community are not worth bothering with. Richard has his own friends, but I do not know who they are. I cannot tell you anyone close to Richard who could talk to you about him. I believe he gave some references on the application, those people should know him very well.

Richard has never used intoxicants or narcotics. He is a fine young man, loyal to our country. I hope that he can get a job, a job that he is worthy of, something permanent so that he will be able to support himself after I retire.

[redacted]

The Defina family lives in the house [redacted] at 220-31 Union Turnpike. The people have lived there for about seven or eight years. I do not know them at all. They bought the house from [redacted] a Doctor, who died suddenly in 1965. They bought the house from the estate, and I believe they moved in there sometime in 1966, but I do not know exactly when. [redacted]

[redacted] There are two other people in the family, a boy who I would say is around 35 and a girl who was a few years older. As far as I know, they do not associate with anyone in the neighborhood. I have never seen anyone visiting there, frankly, I am not that interested.

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A34a

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I can tell you nothing about Richard Defina's character or reputation. He lives in the house with his mother. I see him coming and going, I do not know what he does for a living and I know nothing about him. I can give you no further information concerning this young man.

[redacted]

The Defina family bought the house on the corner of 220th Place and Union Turnpike sometime in 1966. They bought the house from the estate of a Doctor [redacted] who died rather suddenly in the latter part of 1965 or the early part of 1966.

Mrs. Defina is a widow and a practicing Attorney. There are two children in the family, who I have always assumed were hers. There is a girl in her late 30's and a boy in his mid-30's. I believe the boy's name is Richard, and the girl is Gloria. As far as I know, the boy is an Electronics Engineer and the girl is a social worker. [redacted]

[redacted]

They go to church every Sunday, but they are not at all active in church affairs. They never talk to anyone or associate with anyone in the community. I have never seen them talking with anyone at the church. As far as I know, they have friends, but none of them come from this area. I see people going back and forth to the house, but I do not know whether they are clients or friends of the family. I have never seen Richard talk to anyone in the community.

While I do not know anything about them, I do know that they have never caused any problems in the community. I have never heard anyone complain about them, they seem to be reliable and dependable people. I have never had any reason to question Richard's character or reputation, his habits or morals.

I have never seen him use intoxicants and would have no reason to believe he used narcotics. He appears to be in satisfactory health, both physically and mentally. I do not know why he does not associate with anyone in the community, I guess it is because he has friends elsewhere.

I do not know of any clubs or organizations to which he belongs. I do not know any of his friends or associates. I would have no reason to question his loyalty to the United States government. Based on my contacts with him, I would recommend him for a position of trust involving the country's security.

[redacted]

U.S. GOVERNMENT PRINTING OFFICE: 1973—501 422

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The Defina family lives [redacted] on the corner of Union Turnpike and 220th Place. They have lived there since 1965 or 1966. I have never talked to them. I know nothing about them. They are very unfriendly people and seem to go out of their way to keep by themselves. I have never attempted to interrupt their privacy. The family consists of an older woman, Mrs. Defina, who is an Attorney. She has her office just around the corner on Union Turnpike. There is a young man about 30 or 35 and a girl who is about the same age. I assume they are Mrs. Defina's son and daughter. I do not know their names. I know nothing about them that could be considered derogatory. It is just that I do not know anything about them.

I have no idea what the young man does. I see him coming and going from the house and I assume he has full time employment. He seems to drive his mother around quite a bit. I can give no information about them.

[redacted]

[redacted] the Defina family was living in the house on the corner of 220th Place and Union Turnpike. A few years ago someone came here and inquired about the family and I told them at that time that I know very little about the family. I know no more now than I did then. They live there by themselves, quietly. They never even talked with anyone.

The family consists of a woman, who I assume is the mother, and a son and a daughter. I heard at one time that the son was an Engineer, but I do not know of anything for sure about that. I do not know where any of them work. I do not know their first names. They do not associate with anyone in the community. Their house is in a peculiar position, on the corner of Union Turnpike facing the school and church across the street. They really have no close neighbors.

I really do not feel that I am in any position to recommend the boy because I do not know him. I know nothing about him that could be considered derogatory. However, I know nothing affirmative about him and would not recommend him for a position unless I knew him better than I do.

[redacted]

The Defina family has lived on the corner of Union Turnpike and 220th Place for the last six or seven years. I really do not know them, I know very little about them. The family consists of Mrs. Defina who is an Attorney. She has an office around the corner on Union Turnpike, the office is part of the house. I do not know how active she is in practice, all I know is that she has a sign in front of her door. She

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has a young man who I assume is her son and a young woman who I assume is her daughter living with her. I have seen the boy and girl coming in, but I have never had any contacts with them. I have talked to her once or twice, but it was always rather casual. Good morning or good afternoon, nothing extensive.

They are not the type of people who make friends easily. They seem to keep pretty much to themselves.

I have always assumed that Richard works regularly. At one time, I heard he was an engineer, but I do not know how true that is. I know that he seems to keep regular hours. [redacted] I see him mostly on the weekends when he is out in front of the house cutting the lawn.

I know that they are active in one of the local churches, I see them go every Sunday. I do not know if they just go to church, or if they are in any organizations. I have never seen Richard talk with anyone in the neighborhood. As far as I know, he has no friends.

I do not feel that I know this young man well enough to make any recommendations concerning him. All I can say is that I know nothing about him that would cause me to not recommend him for a position.

INVESTIGATOR'S NOTE: Extensive efforts were made in an attempt to locate individuals in the community who had some personal contact with the Subject. The number of people who were contacted were on Union Turnpike, 230th Place and 231st Street. All persons contacted declined any knowledge of the Subject and indicated they know nothing about the Subject's mother or sister.

All attempts to obtain additional information concerning the Subject's residence at this point proved unsuccessful.

[redacted]

NEW YORK CITY POLICE DEPARTMENT, NEW YORK CITY, NEW YORK. (Covering Flushing, New York and Jamaica, New York.)

No record. [redacted]

INVESTIGATOR'S NOTE: It is the policy of the New York City Police Department not to search its arrest records.

Filmed: 10/5/73

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FOR UNITED STATES GOVERNMENT USE ONLY

UNITED STATES CIVIL SERVICE COMMISSION

REPORT OF INVESTIGATION

NAME	ADDRESS
RICHARD JOSEPH DE FINA	220-31 Union Turnpike Queens, New York
DATE OF BIRTH January 12, 1936	PLACE OF BIRTH Brooklyn, New York
POSITION Radio Operator	AGENCY JUSTICE (Drug. Enf. Admin.) Washington, D. C.
TYPE OF CASE Full Field	CSC CASE SERIAL NO. 3.23.74.796
PLACE(S) OF INVESTIGATION	PLACE(S) OF RECORD SEARCH NPRC(Civilian), St. Louis, Missouri
DATE(S) OF INVESTIGATION August 24, 1973	NAME OF INVESTIGATOR [redacted]

Information in this report has been obtained under a pledge of confidence. The sources of information must not be disclosed to the person investigated. The information must not be discussed with him in a manner which would reveal or permit him to deduce its source. However, these restrictions do not apply to (1) information of public record, and (2) information from Federal personnel records which could be obtained on request by the employee. Information from law enforcement records, including place of arrest and conviction, may be used provided the law enforcement office is not specifically named as the source.

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The testimony of all witnesses is given in substance unless indicated by quotation marks.

SYNOPSIS

Short-term Federal employment with COMMERCE also not shown on PSQ.

The Official Personnel Folder for Richard J. DeFina shows he was born January 12, 1936 at Brooklyn, New York.

1-22-71 Career Conditional Appointment, Customs Security Officer, GS 4/1, $7651 p/a, Treasury Department, Bureau of Customs Customs Security Officer District #2, 201 Varick Street, Room 310, New York, N. Y.

2-10-71 Resignation, as above.
Reason: "Due to Army Doctor's eye examination did not meet requirements for Customs Security Officer."

CSC FORM 366
MAY 1970

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5-2-71 Career Conditional Appointment, Library Technician (Typing), CS 4/1, $6202 p/a, Department of Commerce, Maritime Administration, U. S. Merchant Marine Academy, Library, D/S: Kings Point, New York. (Supervisors: [redacted]

5-26-71 Resignation, as above.
Reason: "My duties do not require a technical background."

The above periods of employment are not shown on PSQ.

DD 214, Certificate of Discharge, contained in subject's OPF reflects that he received an Honorable Discharge from the U. S. Air Force and Transferred to the Reserves - SDN 411 - Overseas Returnee. He served from 12-16-55 to 9-15-59 - AF 11 312 339 - A/Second Class - E-3 (P). Terminal date of Reserve Obligation: 12-15-61. (No time lost).

There is nothing of a derogatory nature contained in the Official Personnel Folder regarding subject's service nor any information reflecting adversely on his character, integrity, conduct or emotional stability.

All other information in the Official Personnel Folder was found to be consistent with that in Subject's PSQ.

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GOVERNMENT PRINTING OFFICE: 1972—461-877

A39a

FOR UNITED STATES GOVERNMENT USE ONLY

UNITED STATES CIVIL SERVICE COMMISSION

REPORT OF INVESTIGATION

NAME	ADDRESS
RICHARD JOSEPH DEFINA	220-31 Union Tpke. Queens, New York
DATE OF BIRTH: January 12, 1936	PLACE OF BIRTH: Brooklyn, New York
POSITION: Radio Operator	AGENCY: Justice (Drug Enf. Adm.) Washington, DC
TYPE OF CASE: Full Field	CSC CASE SERIAL NO.: 3.23.74.'96
PLACE(S) OF INVESTIGATION: Brooklyn, New York	PLACE(S) OF RECORD SEARCH
DATE(S) OF INVESTIGATION: October 15, 16, 1973	NAME OF INVESTIGATOR: [redacted]

Information in this report has been obtained under a pledge of confidence. The sources of information must not be disclosed to the person investigated. The information must not be discussed with him in a manner which would reveal or permit him to deduce its source. However, these restrictions do not apply to (1) information of public record, and (2) information from Federal personnel records which could be obtained on request by the employee. Information from law enforcement records, including place of arrest and conviction, may be used provided the law enforcement office is not specifically named as the source.

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The testimony of all witnesses is given in substance unless indicated by quotation marks.

SYNOPSIS

Period covered: Supplementary report covering 1933 to present. No derogatory information developed. Complete local law enforcement files not available. Date, place of birth not corroborated.

BROOKLYN, N.Y.

[redacted]

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A402

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[redacted]

I have had the opportunity to observe the behavior and character of Richard Joseph De Fina [redacted] I regard him as an extremely intelligent young man who is very thorough in whatever he does. He is a very studious person and has taken many courses in electronics. I regard him as a very regular human being. He has always appeared to me to be a very reliable person, and I know that he has had problems with finding a steady position, but these are mostly generated because the people he has worked for have taken his ability for granted. He lives now with his mother, a lawyer, and his sister, a high school teacher. I really am not familiar with any of his close personal associates, nor anyone who has known the De Fina for a long period of time. [redacted]

I believe Richard De Fina does get along well with everyone, and I never saw him become angry or disturbed whenever I was visiting his mother. Madeline De Fina runs a very close family, and she would never allow Richard to drink excessively or take drugs for any reason. I believe she would throw him out of the house if he was doing so. I regard Richard De Fina as an honest and trustworthy person, and I do not know of any particular financial problems or debts he may have. I do not believe he does so because his mother is not the type of person to allow debts of any family member to exist without efforts made on their part for compensation to the person to which the debt was owed. I never was informed by anyone, or did I become aware of any police problems in which Richard Joseph De Fina was involved. Richard De Fina appears to be in excellent physical health, and he is an avid tennis player. He usually goes out mornings to play at a court a short distance from his home in Queens. Richard De Fina has always impressed me as being in excellent mental health, and he has never become rattled or emotionally disturbed for any reason while I have observed him. I am not aware of any particular social friends he may have, but I know he does go out, and his interests include electronics and reading. I know that he does a great deal of studying on his own, and many electronic devices fill the house from top to bottom. I regard Richard Joseph De Fina to be an emotionally stable individual, and I have always observed his actions to be of the utmost maturity on his part. He is not the hippie type of person as we find others to be today, and I believe anyone would be proud to have him as an employee.

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I believe Richard Joseph De Fina to be a very loyal citizen to the United States and I recommend him without reservation for a position sensitive to national security.

[redacted]

I have known Richard Joseph De Fina since about [redacted] This was when [redacted] and that is how I met Richard De Fina. I have not seen Richard for about [redacted] because [redacted] and we do not get to see each other as much. I would say that I have observed and spoken to Richard De Fina [redacted] or [redacted] times over the [redacted] years that I have known him.

There is nothing truly derogatory I can say about Richard De Fina. I know that he is still single, and when I have spoken to him he has been a very pleasant person. I regard him as an extremely honest and trustworthy person, and a very reliable person. He appears to be very engrossedin his work, which is in some way involved with electronics. He appears to always wish to learn more about electronics, and I have observed him to always be studying. I believe his sister mentioned that he was having trouble finding a position but I believe the difficulty was caused by the lack of jobs in his particular field at this time. I believe Richard De Fina is a product of his home life. Richard De Fina's mother, Madeline De Fina, was one of the first women lawyers. Gloria De Fina is working as an English Teacher as I mentioned, and she is a very conscientious individual. Some teachers will come to work and be unprepared for their days classes, but not Gloria De Fina. Richard De Fina's mother appears to have the same attitude towards whatever she does. I believe that Richard De Fina's love of studying and doing things well, is a product of the mother who has raised the children in somewhat of her own mould. In summary I regard the De Fina family as a very fine one, and in particular, Richard Joseph DeFina, as a very fine and good man.

I have always regarded Richard De Fina as a complete gentleman. He has always been extremely polite and pleasant to me when I [redacted] and I must assume that he gets along as well with others. I was never told by his sister, nor have I learned elsewhere, that Richard Joseph De Fina was anything but honest and trustworthy, and that he had no financial debts of any kind. I do not believe his mother would allow such a situation to exist for one of her children, that is, having financial debts of large proportion. I was never informed by any source that Richard De Fina was involved in any way with the police, but if he did so, I was given the impression by his mother that such behavior would warrant his expulsion from the household. He has always appared to me to be

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in good physical health and I was never given any reason to question his mental health. [redacted] I never saw Richard to be in a condition that suggested he drank alcohol heavily or that he was taking drugs for any reason. The De Fina home is inhabited by a good family, and such behavior is not typical of this type of family. I know that Richard De Fina was very interested in electronics of all sorts, but I am not familiar with any of his other particular hobbies or endeavors. I regard Richard Joseph De Fina as an emotionally stable and mature person, and I would say he was more mature for his age than some people. I think his very attitude towards wanting to do something well, if he does it at all, is a suggestion of that particular maturity.

I regard Richard Joseph De Fina as an extremely loyal citizen of the United States, and I recommend him for a position with the Federal Government which may be sensitive to national security without the least hesitation on my part.

[redacted]

Law Enforcement Search included in basic report.

NY:rs: 10/18/73

2.2

GOVERNMENT PRINTING OFFICE: 1971—445-952

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A43a

UNITED STATES GOVERNMENT

Memorandum

15 DAY MUST
PHONE

BUREAU OF CUSTOMS

2)23.71- 4166

DATE: January 13, 1971

TO : Mr. Ritchey Williams, Chief
Division of Reimbursable Investigations
Room 2470, U. S. Civil Service Commission
Washington, D. C. 20415

FILE: S 29-M

FROM : W. A. Magee, Jr. W. A. Magee, Jr. by G.A.D.
Assistant to the Commissioner (Security)

SUBJECT: Request for Full Field Investigation

The Bureau of Customs requests that the Civil Service Commission conduct full field investigations of those applicants and employees listed below. Pertinent data relative to a specific individual is set out by asterisk beside the name.

[redacted]
DE FINA, Richard Joseph
[redacted]

Ltr Marshal

USCSC B.P.I.
RECEIVED
JAN 14 1971
DIVISION OF REIMBURSABLE INVESTIGATIONS

TREASURY DEPARTMENT
BUREAU OF CUSTOMS

TRANSMITTAL AND ROUTING SLIP

SUBJECT OR FILE NO.

DATE: February 10, 1971

TO	DESTINATION	INITIALS	TO	DESTINATION	INITIALS
1	[redacted] Civil Service Commission		6		
2			7		
3			8		
4			9		
5			10		

FOR
- ACTION
- INFORMATION
- COORDINATION
- COMMENT
- [illegible]
- RETURN
- PER CONVERSATION
- SEE ME
- CIRCULATE
- SIGNATURE

REMARKS

Please cancel investigation of the following Sky Marshals:

[redacted]

DEFINA, Richard Joseph

SIGNATURE [redacted]

ATTACHMENT
☐ Forwarded for review and initialing

PHONE

SUSPENSE DATE

CUSTOMS FORM 3107 NOV 67

958-928

U.S. GOVERNMENT PRINTING OFFICE [illegible]

A45a

FOR UNITED STATES GOVERNMENT USE ONLY

UNITED STATES CIVIL SERVICE COMMISSION

BUREAU OF PERSONNEL INVESTIGATIONS

WASHINGTON, D. C. 20415

REPORT OF NATIONAL AGENCY CHECK

NAME	DATE OF REPORT
DE FINA, Richard Joseph	2-22-71
	DATE OF BIRTH: 1-12-36
POSITION: Customs Sec. Off. Sky Marshal	PLACE OF BIRTH: Brooklyn, N.Y.
AGENCY: Treasury (Bur. of Customs) Wash., D.C.	CSC SERIAL NO.: 2.23.71.4166

A National Agency Check has been conducted in this case and the results are indicated below.

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[x] **FEDERAL BUREAU OF INVESTIGATION**

- [x] No Criminal Record
- [ ] Unclassifiable fingerprints returned to agency on _____. When new fingerprints are received they will be processed.
- [ ] Fingerprint Chart not submitted for searching
- [ ] Form 1-4 attached
- [ ] No Investigation Conducted by FBI Pertinent to Your Inquiry
- [ ] No Derogatory Data
- [x] [redacted] FBI Reports Attached

[x] **UNITED STATES CIVIL SERVICE COMMISSION INVESTIGATIVE FILES**

- [ ] No Record
- [ ] Nothing Derogatory
- [ ] _____ CSC Report(s) Attached

[x] **HOUSE COMMITTEE ON INTERNAL SECURITY**

- [ ] No Record
- [ ] Record Attached

[x] **DEFENSE CENTRAL INDEX OF INVESTIGATIONS** *(Includes Army Investigative Records Repository, Naval Investigative Service Hq/ONI, and Office of Special Investigations, Air Force)*

- [ ] No Record
- [x] Nothing Derogatory

[ ] **OFFICE OF COAST GUARD INTELLIGENCE**

- [ ] No Record
- [ ] Nothing Derogatory

REMARKS:

[redacted]

Reported by [redacted]
(CASE CONTROL AND REVIEW OFFICER)

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USCSC-WASHINGTON, D. C.

IN 3204

A46a

FOR UNITED STATES GOVERNMENT USE ONLY

UNITED STATES CIVIL SERVICE COMMISSION

REPORT OF INVESTIGATION

NAME	ADDRESS
RICHARD JOSEPH DE FINA	220-31 Union Turnpike Flushing, New York
DATE OF BIRTH January 12, 1936	PLACE OF BIRTH Brooklyn, New York
POSITION Customs Sec. Officer - Sky Marshal	AGENCY Treasury Department (Bur. of Customs)
TYPE OF CASE Full Field	CSC CASE SERIAL NO. 2.23.71.1966
PLACE(S) OF INVESTIGATION San Diego, California	PLACE(S) OF RECORD SEARCH
DATE(S) OF INVESTIGATION January 29, and February 1 and 2, 1971	NAME OF INVESTIGATOR [redacted]

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SYNOPSIS

Period covered: September 1968 to March 1969, by record only. Discrepancy reflected in reasons for leaving Stromberg Datagraphics, Inc. Law enforcement and credit searches not made in the absence of local employment or residence. Date, place of birth corroborated.

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A47a

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SAN DIEGO, CALIFORNIA

[redacted]

STROMBERG DATAGRAPHICS, INCORPORATED, a Division of General Dynamics Corporation, 5995 Mission Gorge Road. Record information furnished by [redacted]

Richard Joseph DeFina was employed in our New York City offices at No. 1 Rockefeller Center and was there from September 9, 1968 to March 28, 1969.

Mr. DeFina was employed as a customer engineer, his duties involving the installation and maintenance of equipment, consequently he was, so to speak, a field service mechanic.

Mr. DeFina was born January 12, 1936 at Brooklyn, New York; his Social Security number is 108-28-5898, and residence address 220-31 Union Turnpike, Flushing, New York.

The file shows that Mr. DeFina did not perform to our satisfaction and that he was involuntarily terminated on that basis. He was discharged and would not be rehired.

It is possible Mr. DeFina was asked to transfer, but there is nothing in the file to so indicate; such a transfer, however, would not, I am confident, have been a physical transfer, but an account reassignment, or account transfer in or around the city of New York.

I never knew Mr. DeFina personally and there is no one here who would have worked with or known him. The person who was his supervisor is no longer with the company and the last we knew had gone to work for some concern in Texas.

From notations in the record, it appears Mr. DeFina was not very cooperative, his supervisor had difficulty getting him to be responsive in his job, he failed to keep some appointments, and was obstinate and would not come in to meet with his supervisor to discuss matters or his possible shortcomings. He did eventually do so, however. It is further indicated, among other things, that Mr. DeFina would not have a phone in his place where he could be reached and evidently his mother objected and did not want him to be on call. Mr. DeFina is shown in our records to have been single at the time he worked for us. [redacted] his mother [redacted] is an attorney; [redacted] expressed [redacted] her feelings that her son was being treated unfairly by us. I might also add, however, that some facilities we did business with and serviced didn't want Mr. DeFina in their plant

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GOVERNMENT PRINTING OFFICE: 1968 - 287-683

A48a

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and this would tend to support the possibility of an account transfer rather than any physical transfer. If such a matter did come up, the only person I know of who could shed light on it, and who would know, fully, the details of Mr. DeFina's termination would be his former supervisor [redacted] as I can find nothing in the record relating to this at all. Furthermore, I would not rule out the possibility of a personality conflict existing between Mr. DeFina and his supervisor. It cannot be ascertained from the record just what Mr. DeFina was told, at the time of his termination, but the record shows it as an involuntary termination or discharge.

DE:hpm:2-4-71

2-5-

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A498

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UNITED STATES CIVIL SERVICE COMMISSION

REPORT OF INVESTIGATION

NAME	ADDRESS
RICHARD JOSEPH DE FINA	220-31 Union Turnpike Flushing, New York
DATE OF BIRTH January 12, 1936	PLACE OF BIRTH Brooklyn, New York
POSITION Sky Marshal	AGENCY Treasury (Bureau of Customs)
TYPE OF CASE Full Field	CSC CASE SERIAL NO. 2-23-71-4-166
PLACE(S) OF INVESTIGATION Flushing, Hicksville, Elmhurst, Greenvale, New York	PLACE(S) OF RECORD SEARCH Mineola, Syosset, New York, New York
DATE(S) OF INVESTIGATION February 4,5,8,9, 1971	NAME OF INVESTIGATOR [redacted]

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The testimony of all witnesses is given in substance unless indicated by quotation marks.

SYNOPSIS

Period covered: Approximately January, 1966 to September, 1968 and April, 1969 to date. Discrepancies disclosed in dates of claimed employment. No derogatory information developed; however, investigation raised question regarding identity of subject's parents. Date of birth corroborated.

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FLUSHING, NEW YORK

[redacted]

MISS MADELINE DE FINA, Self Employed Attorney, 220-31 Union Turnpike.

Richard DeFina is my younger brother. In recent years, he has had an unfortunate employment background since he went into defense work type jobs doing electronics work. He had worked for several years with the ITT Labs in New Jersey and was going to college part time. He was forced to resign from that position because they wanted him to work on a night shift which would have interfered with school. Richard then worked with the Kollsman Instrument Company in Elmhurst, New York but had hard luck on promotions. He felt that he deserved a promotion there but was put on the night shift instead and for that reason, he left. During the short periods between jobs, Richard, who lives here with me, helped me with my law work. I am a lawyer and I was able to use Richard. He would come to court with me as a clerk, handle my professional calls, and develop information for me on clients.

About two years ago, he took another electronics job with the General Instrument Corporation in Hicksville, New York. After he was trained, they apparently ran out of defense work and Richard and his co-workers had nothing to do. They were sitting around wasting time, so that he left. Richard has had hard luck and he is seeking a job with security.

This past summer and fall, Richard had a recurrence of a prior operation and spent much time at home here. During the period that he was in military service, they had done a hemorrhoid operation on him but had left a fissure which chronically bothered Richard. In August, 1970, a doctor at Bayridge Hospital in Brooklyn, New York operated on it and he was in the hospital for three days, and then at home for an extended period while he recuperated. This past fall, he also enrolled in Post College in Greenvale, New York and completed a three credit course in History there in January, 1971. He received a B+ in the History course during that semester and earned three credits. He was excused from the final by the instructor so that he could leave for Washington, D.C. in January, 1971 to begin his training as a sky marshal.

In recent years, whenever Richard had difficulty locating a job, I used him here in my office in between and this has also been his home. Richard also built a television set for me in my basement and has developed several meters for me.

He had another brief job with Stromberg in California about two or three years ago, which did not work out for him.

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I do not have any colleagues in this area who are acquainted with Richard and familiar with his employment in my office. I work by myself, and have little contact with other attorneys. This is because I am a woman doing criminal law work, and male lawyers have not been particularly receptive to me.

We have only lived in this neighborhood four or five years, and while some of the neighbors know who Richard is, they would not be familiar with his background or employments.

[redacted]

Madeline DeFina and her son, Richard and daughter, Gloria, reside in the house [redacted] which faces on Union Turnpike. Richard is single and my contact with them has always indicated that he is Madelina DeFina's son. He is about thirty-five years of age. I am of the opinion that Richard works, since I see his car leaving in the morning and coming back at night. I would have no idea of the type work he does. Madeline DeFina is a lawyer but I am not one of her clients. [redacted] She refers to Richard as "my son."

Richard, himself, is apleasant and friendly fellow when I meet him [redacted] but we have had no lengthy conversations, and I know nothing of his associates or activities. He is very quiet, dresses neatly, and is polite. [redacted]

Whenever I saw him, he appeared to be of good personal habits. As far as I know, he is sober, morally normal and generally well adjusted. His talk seems intelligent and he appears alert.

I have seen him leaving with a tennis racket in the summer and he appears to be a healthy fellow. I would certainly have no reason to question his loyalty to our country. I have been favorably impressed by him and on the basis of our [redacted] contact, I would recommend Richard for duties involving our national security. [redacted]

[redacted] the DeFina family [redacted] reside at 220-31 Union Turnpike during their residence in that home, during the past five years. My contact with them has not been a pleasant one. Madeline DeFina resides in the house with her son, Richard, and her daughter,

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whose name is Gloria. [redacted] On another occasions, she went around to neighbors trying to get them to sign a petition [redacted] The neighbors would have nothing to do with it. For this reason, they are not well known in the neighborhood. Other people do not bother with them.

My personal contact with Richard DeFina has been limited, [redacted] I must admit that I am rather prejudiced in my opinions about this family, and for this reason, I have to wonder about Richard, too. They have given me a lot of trouble and Madeline DeFina is a chronic complainer.

My personal contact with Richard has been extremely limited. He gives the appearance of being unemployed rather regularly. I do not know him well enough to offer an opinion regarding his suitability for a responsible position with a federal agency. I would say, however, that, if mental illness is hereditary, he certainly could have a problem.

[redacted]

The DeFina family reside in the corner house [redacted] for about four or five years. The family includes Madeline DeFina, who is an attorney, and the mother. She has a daughter and son living with her. The DeFinas keep very much to themselves, and I would estimate that I have probably seen Richard DeFina [redacted] times during these years. He seems to be a normal sort of fellow and as far as I know, he is single. On one recent occasion, I saw him in a hippie type outfit, but other than this, he has dressed in normal fashion.

[redacted]

[redacted], I [redacted] rarely come into contact with Richard DeFina. As far as I know, he has never been married and has lived regularly with his mother [redacted]

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since they bought the house. When they first arrived here, I heard that he was deathly sick supposedly due to the fact that the prior occupant of the house had left some chemical in the bathtub. More recently, he has appeared to be in satisfactory health.

I cannot comment on his reputation, reliability, or personal habits, since I really do not know if I would even recognize Richard DeFina if I met him face to face on the street. They are a family who have stayed to themselves, and I cannot suggest anyone else [redacted] who could supply more information about him.

[redacted] the DeFina family have resided in the corner house. The family appears to consist of a mother, son and daughter. I do not know them by name. My only conversation with the son took place when there was an accident on the corner a few months ago. At that time, I spoke with the son and I recall that he said that he was an engineer. I cannot tell you where he works, and I do not see him often enough to know if he works regularly. I did not even know his first name.

The DeFinas' house faces on Union Turnpike and is located across the street from a church and school. They stay to themselves, and I rarely see the son. I do not know anyone else who is personally acquainted with him.

INVESTIGATOR'S NOTE: Further neighborhood investigation in an attempt to develop information regarding the subject's activities in the neighborhood were unsuccessful. [redacted]

GREENVALE, NEW YORK

[redacted]

C. W. POST COLLEGE, Northern Boulevard. Record furnished by [redacted]

We have located an Admissions File which contains limited information regarding Richard J. DeFina. He registered as a full time, matriculated student in this college for the fall semester, which began on September 14, 1970. A letter in the file indicates that he withdrew on October 26, 1970 and to the best of my knowledge, he completed no courses, and received no credit. He indicated an intention to study in the area of engineering

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and was attending full time days during that brief period.

My review of his records would indicate that he may have withdrawn due to the fact that we were allowing him only thirty-six credits of a total of 83 credits that he had earned at prior schools. He may have felt that this would be too big a loss. He did not supply this office with any reason for withdrawnng.

Our records show his date of birth to be January 12, 1936, and he resided at 220-31 Union Turnpike, Flushing, New York.

His application indicates that he was awarded an AAS Diploma at the New York Community College in June, 1962 with a total of 64 credits. Between September, 1962 and June, 1965, he received 19 credits at the City College of New York.

I am of the opinion that his period of attendance in class was too brief for him to have withdrawn due to academic difficulty. This is the extent of information we can supply in this office.

C. W. POST COLLEGE, Northern Boulevard. Record information furnished by [redacted]

We have located a roster which reveals that [redacted]hard Joseph DeFina was enrolled as a full time student here at Post College in the fall semester of 1970. We do not have his docket or a transcript of his record, in this office yet, due to the fact that the semester was only recently ended.

The spring semester began on Monday, February 1, 1971, and our records indicate that this student did not register for the spring semester.

[redacted]

I recall Richard DeFina who was a student in a three credit, undergraduate [redacted] course: [redacted] My only contact with him was in that course. I recall Richard very well for several reasons. He was older than the other students, appearing to be in his thirties, and he was very seriousminded and intelligent, [redacted] Richard participated in the classroom, did his outside work very well [redacted] After about one month or six weeks, Richard sent me a letter indicating that he was forced to withdraw [redacted] because of the fact that he was recovering from an operation of some sort. Richard was so intelligent, and I was so impressed with him, [redacted]

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the classroom material to him at home so that he could do the classwork and submit the papers. [redacted] sent him a mid-term examination and had him submit a special paper in lieu of a final examination. He met all the requirements and [redacted] given a grade of B+ for the course. The semester is only recently completed, and I do not know if the records office has yet received the grade.

I quickly observed in the classroom that Richard was extremely reliable. One day, [redacted] film strip to his home and Richard then brought it to class and handled the students [redacted] was impressed by Richard's stability and maturity. [redacted]

I knew Richard in the classroom only. He displayed good habits there, was never a source of trouble to me, and my total impression was very favorable. He was courteous, refined and extremely reliable. He seemed sober and morally normal.

Although his general appearance was that of a healthy fellow, the operation he had prevented him from traveling from his home to the college.

I formed the opinion in the classroom that Richard is a reputable citizen and he certainly expressed no extremist or subversive views. He is mature-looking and I would certainly recommend him for a responsible position involving the national security.

HICKSVILLE, NEW YORK

[redacted]

GENERAL INSTRUMENT CORPORATION, Electric Systems Division, 174 Andrews Road. Record information furnished by [redacted]

The employment record card pertaining to Richard DeFina reveals that he was employed from April 7, 1969 to June 30, 1969, when he resigned voluntarily giving as his reason "to accept another job." During his period of employment with u[redacted] was participating in a training program to prepare him to be a [redacted] engineer with our equipment. At the completion of the training, [redacted] would have been put aboard ship and have remained in this status. My review of the record would indicate that he was never assigned to any ships having not completed the program of training when he resigned.

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Our records show his date of birth to be January 12, 1936. His Social Security Number is 108-28-5898. He resided at 220-31 Union Turnpike, Flushing, New York.

Although our record does not include his educational background, no college degree was required for the training program. His employment was too brief for the record to include any supervisory evaluations.

Since the record card includes no unfavorable information, I would consider him to be eligible for reemployment.

INVESTIGATOR'S NOTE: Attempts to interview witnesses at the above employment who had personal contact with the subject were unsuccessful. The Director of Industrial Relations advised that the employee who was in charge of the Field Engineering Training Program is now in Europe. Other trainees during the period are now in the field assigned to various ships.

MINEOLA, NEW YORK

[redacted]

NASSAU COUNTY POLICE DEPARTMENT, (covers Hicksville and Greenvale, New York).

No criminal record.

ELMHURST, NEW YORK

[redacted]

KOLLSMAN INSTRUMENT CORPORATION, Corporate Records Office, Underhill Boulevard, SYOSSET, NEW YORK. Record information furnished by [redacted]

At this date, we have retained a personnel record card only pertaining to Richard J. DeFina who was employed in our Elmhurst, New York Plant from September 21, 1966 to January 12, 1968. At that date, he resigned giving as his reason to accept a better job. He was employed as an electronic test equipment technician during the entire employment.

His Social Security Number is 108-28-5898. His date of birth was given as January 12, 1936 and he resided at 220-31 Union Turnpike, Flushing, New York. At that time, he was single.

The record contains no information which would reflect adversely on his reputation, conduct, or reliability, and it was noted that he is eligible

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for reemployment. His attendance record was good and he took no extended leaves from the job. His application and complete employment file are unavailable since they are now in storage in our warehouse.

[redacted] during his employment in our Laboratory as a test equipment technician. [redacted] he worked for about two years, and left under favorable circumstances in the hope that he could better himself. He was a reliable and conscientious employee, and is definitely eligible for re-employment [redacted]

Richard was on the job regularly and was a very cooperative and alert employee. [redacted] Richard was single, and I did not learn of his leisure interests.

He appeared for work punctually and impressed me as a sober, morally normal,, and generally well liked employee.

As I recall he may have also attended college evenings, and he seemed determined to better himself. At the time Richard was in good health and he seemed to be an emotionally stable and well adjusted fellow.

I certainly would have no reason to question his loyalty to our country. He voiced no questionable political views and I feel that he could be trusted with confidential information. I would certainly recommend him for a responsible job involving the national security. I hope that he performs as well for a federal agency as he did [redacted] here. I have not seen Richard since he left about three years ago.

I cannot recall where he had previously worked at this date. We intermittently have projects in the laboratory in which a technician is put in charge and supervises other technicians. I recall that Richard had this responsibility on a few occasions, and he performed well and was well liked by his co-workers.

Richard never abused his Sick Leave and proved to be of good character and honesty. My recollection of him is very favorable.

We have had a high turnover of personnel since that time, and the foreman who worked most closely with Richard De Fina is not now available with the company.

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NEW YORK, NEW YORK

[redacted]

NEW YORK POLICE DEPARTMENT, (covering Flushing and Elmhurst, New York).

No criminal record.

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UNITED STATES CIVIL SERVICE COMMISSION

REPORT OF INVESTIGATION

NAME	ADDRESS
RICHARD JOSEPH DE FINA	220-31 Union Turnpike Flushing, New York
DATE OF BIRTH January 12, 1936	PLACE OF BIRTH Brooklyn, New York
POSITION Customs Sec. Off. Sky Marshal	AGENCY Treasury (Br. Customs)
TYPE OF CASE Full Field	CSC CASE SERIAL NO. 2.23.71.4 166
PLACE(S) OF INVESTIGATION Clifton and Paramus, New Jersey	PLACE(S) OF RECORD SEARCH
DATE(S) OF INVESTIGATION February 3,4,8, 1971	NAME OF INVESTIGATOR [redacted]

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The testimony of all witnesses is given in substance unless indicated by quotation marks.

SYNOPSIS

Period Covered: July, 1964 to July, 1965. Discrepancy in claimed dates of employment. Question of emotional stability. Local law enforcement search, no record. Credit bureau search, no record. Date of birth corroborated.

CSC FORM 268
AUGUST 1960

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CLIFTON, NEW JERSEY

[redacted]

ITT LABORATORIES, 150 Kinsland Avenue. Record information furnished by [redacted].

The employment file of Richard Joseph DeFina shows he worked for this company as an Electronic Tester from July 13, 1964 to July 8, 1965. His Social Security number is 108-28-5898. He was born January 12, 1936 but the place is not given. He was single and resided at 315-101st Street, Brooklyn, New York. He resigned of his own accord but he is not eligible for rehire.

He submitted a short letter of resignation, effective July 8, 1965 and said the reasons were given in an attached letter. The attached letter is signed by Madeline DeFina. She starts the letter off with, "I advised my son and client to resign" and she goes on for pages giving reasons why she made this decision. She blamed management and the union for her son's dissatisfaction with the job and claims that foul language was used against her and her son. I did not note it at the time but I now realize that he had listed Madeline as a sister. This was on his application. He showed his father's name as Rocco and His mother's name as Rose.

The file shows that he had been suspended on one occasion for insubordination but the date and details are not listed.

On his application he shows that he attended New York City Community College from 1959 to 1962 and that he had received a degree as Associate E. T. He then attended the City College of New York from 1963 and was still attending that college at the time he was hired in July, 1964. He shows no previous employments.

[redacted]

[redacted] Richard DeFina worked here from July, 1964 to July, 1965, [redacted] He was a constant source of irritation, a troublemaker all the way around. [redacted] know nothing of his family life except that his mother or sister was also a troublemaker. The personnel records show his mother as Rose but I was always under the impression that his mother was Madeline DeFina. She was constantly calling his office complaining about the treatment Richard DeFina was receiving, both by the company and the union. At one time she threatened to sue the company and the union. I believe that was at the time he was suspended for insubordination but I no longer remember those details and they are not

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given in the personnel file. There was never any question of drinking or drugs or narcotics on the part of Richard and there was no reason to question his honesty or moral conduct. He was healthy, physically, but as far as maturity and emotional stability are concerned, I assure you his actions were mighty peculiar. I recall one instance where he complained that his hands were being cut from wires which he used in his occupation as electronic tester. He asked for protective clothing and was issued a pair of white cotton gloves. These are standard gloves issued to all the employees who need them. He complained that he thought these gloves were for women and that they were issued to him in order to ridicule him.

He finally submitted a letter of resignation in July, 1965. As the file shows, he submitted a letter signed by Madeline DeFina, along with his letter of resignation giving all the reasons why he was leaving the company. I note that she referred to him as her son and that raises a question in my mind as to just whose son he really is. In any case we were mighty glad that he left and we would not rehire him.

There was never any question of his loyalty to our country but I would hesitate to trust him with any information concerning our security. He may be alright for some jobs but I would not recommend him for any assignment where emotional stability is a major factor.

[redacted]

Richard DeFina worked [redacted] as an electronic tester, for about one year during 1964 and 1965. He was single and I assumed he lived with his family somewhere in Brooklyn. I do not recall any employment background but he was still attending school nights while he worked [redacted] I do not know which college this was. [redacted] He did get into trouble with his supervisor [redacted] on a few occasions [redacted]. His work performance was good but every once in awhile something would upset him. He would get excited and irrational and [redacted] have to calm [redacted] down. I do not know whether he was having trouble at home or just what caused these problems that upset him. He did have a sister or a mother who as a lawyer and I had the feeling that this person might be part of his trouble. Whenever Richard ran into some problem apparently he would call this person. I know this because within a short time she would call [redacted] insisting that Richard be given his rights. She was giving [redacted] trouble and I understand she was also giving the union trouble concerning Richard. It got so I hated to answer the phone when I knew she was on the other end. It was impossible to reason with her. Eventually Richard resigned and we all drew a long sigh of relief.

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His resignation occurred a short time after he left our department. We let him go because of lack of work in this particular department and maybe he was not happy in his new assignment. Although I seemed to be able to get along with him, he had difficulty in getting along with anyone else. No one wanted to work with him. He was capable in his line of work and could have been a good employee if he would get over the idea that everyone was trying to put something over on him. He was always demanding his rights. I recall one incident when he claimed that he was being denied protective garments. All he had to do was ask. [redacted] to go and draw a pair of gloves then he complained about the color. There was no pleasing him. He claimed that he was being mocked by being furnished white gloves. That was the only color we had available. It was always some little thing such as that which caused him no amount of aggravation.

He seemed to be in good health and I believe his attendance was fairly good. There was never any question concerning his sobriety or moral conduct or his honesty. I am sure he did not use drugs or narcotics. His major problem was his inability to get along with others. This seemed to be a result of some family pressure upon him. If he would get away from them he might prove to be a good employee.

I do not know his organizational affiliations. He never said or did anything that would cause me to question his loyalty to our country. I would not want to rehire him without a very lengthy interview to see how he has been getting along since he left us. As of the time he left us, I do not believe I could recommend him for employment with the government where our security may be involved.

[redacted]

[redacted] Richard DeFina worked [redacted] as an electronic tester. He lasted about a year and this was sometime around 1965. The major thing I remember about Richard is his sister. She was an attorney and a 100 percent nut. She was a real "ding bat", threatened to sue the company and the union regarding Richard's rights. Actually she was not his sister. When she began to give us trouble at the company I made some discreet inquiries concerning her and got the impression that she was actually Richard's mother, that she had him out of wedlock. He used his grandmother's name as his mother. Information also came to my attention that led me to believe that she was disbarred. She had a tremendous influence over Richard and it was all bad. It all started with her when Richard was suspended after a run-in with his supervisor. The supervisor ordered Richard to sweep his station. This was a normal part of the job of the testers to keep their area clean. However, Richard

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raised a big fuss, claimed that he would not do janitorial work, that it was beneath his dignity, and he absolutely refused to follow the orders. He was suspended. This started a string of letters from the attorney, his sister or his mother, whatever she was.

[redacted] Richard [redacted] had [redacted] personnel problems. These occurred all too often. He has a bad temper and was constantly blowing his cork. He was a clean-cut fellow and he knew his job. In fact, when he was not causing trouble, he was really a good worker. There was nothing about him that every caused any questions concerning drinking or drugs or narcotics. He really seemed to be a decent sort and gave me no cause to question his moral conduct or his honesty. He was physically healthy but mentally unstable. He was constantly demanding his rights and was really a pain. We were all delighted when he left.

I do not know his organizational affiliations. I never had reason to question his loyalty to our country but I could never recommend a fellow as unstable as he was for any federal employment.

[redacted]

CLIFTON POLICE DEPARTMENT. Record information furnished by [redacted]

No record.

GARDEN STATE CREDIT BUREAU, 429 Getty Avenue. Record information furnished by [redacted]

No record.

PH:lgg:2/9/71

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REPORT OF INVESTIGATION

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DATE OF BIRTH January 12, 1936	PLACE OF BIRTH Brooklyn, New York
POSITION Sky Marshal	AGENCY Treasury (Customs)
TYPE OF CASE Full Field	CSC CASE SERIAL NO. 2.23.71.4 166
PLACE(S) OF INVESTIGATION New York, New York	PLACE(S) OF RECORD SEARCH
DATE(S) OF INVESTIGATION January 26, 29; February 5, 8, 1971	NAME OF INVESTIGATOR [redacted]

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SYNOPSIS

Period Covered: Intermittently from September, 1962 to May, 1968. No derogatory information developed. Local law enforcement agency files, no record. Date, place of birth corroborated.

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NEW YORK, NEW YORK

[redacted] RCA Institute, [redacted]

We have no record concerning Richard J. De Fina. I must conclude that he never took any of our courses that required personal attendance. However, he may have taken some of our correspondence courses.

[redacted] Home Study Division, RCA Institute, [redacted]

We have no record concerning Richard J. De Fina. However, we moved from downtown on January 15, 1968, and our records are no longer one hundred per cent complete. Also, some records may have become misfiled or otherwise lost when we computerized our records.

I came here at the end of [redacted] I recall that a person by the name of Richard De Fina did take correspondence courses. I do not remember anything about him.

[redacted]

I recall handling correspondence and telephone calls which were of a routine nature from Richard De Fina. I would estimate that he had correspondence studies with us for two years, but I cannot remember the years. He took our F. C. C. communications course. He also took a course in connection with television servicing.

I estimate that most of his studies with us were prior to January, 1968, when we moved to this location.

[redacted] Evening Session Office, City College of the City University of New York, 38th Street and Convent Avenue.

We have no transcript or file for Richard Joseph De Fina. However, we have a card which shows that in February, 1966, we transferred his transcript to the downtown branch of City College. Three years ago that downtown branch became Baruch College.

CONFIDENTIAL INFORMANT "A", [redacted]

We have a record for Richard J. De Fina which shows that he was born on

42

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A 66a

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January 12, 1936, place not listed. His address was 315 101st Street. Brooklyn, New York. He came to City College from New York City Community College.

Our record shows nothing derogatory concerning De Fina's character, habits, associations or loyalty to the United States Government.

BARUCH COLLEGE OF THE CITY UNIVERSITY OF NEW YORK, Evening Session Office, 17 Lexington Avenue. Record information furnished by [redacted]

The transcript for Richard J. De Fina shows that he was born on January 12, 1936 at Brooklyn, New York. The transcript includes his courses at uptown City College. His addresses are listed as 315 101st Street, Brooklyn, New York and 220-31 Union Turnpike, Flushing, New York. He was at the New York City Community College in the September, 1955 to June, 1962 period and his courses there were evaluated as twenty credits towards a degree at City College. He was in military service from December, 1955 to September, 1959.

De Fina was at uptown City College from September, 1962 to June, 1965. In the semester ending January, 1963, De Fina took two courses but did not complete them, reason not shown. Then he completed three credits in the semester ending January, 1964 and three credits in the semester ending June, 1964. Completing nine credits in the semester ending January, 1965, De Fina completed seven credits in the semester ending June, 1965.

He transferred here in February, 1966, and enrolled in a three-credit management course. He did not finish the course and in 1966 he received a J, which indicates that he resigned from the course. The reason for the resignation is not shown. He left in good standing.

With respect to the courses that De Fina completed, he was a B student. No derogatory information is shown concerning his character, habits, associations or loyalty to the United States Government.

CONFIDENTIAL INFORMANT "B", [redacted]

We have no information concerning Richard J. De Fina.

[redacted], Baruch College of the City University of New York, 17 Lexington Avenue.

We have no record concerning Richard J. De Fina. I have checked all college bulletins and have been unable to ascertain who taught the elementary business management course that he took. We had about forty different classes of students who took the basic management course. Those

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A67a

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who took that course during evenings not two nights per week, one and a half hours each session.

I have been here for many years and do not remember De Fina. I have been unable to find anyone who recalls him.

[redacted]

NEW YORK CITY POLICE DEPARTMENT (Covering New York, New York).

No record.

PH:jl:2-12-71

Property of U.S. Civil Service Commission. This report may not be transferred to another

FORM SCI-50
JULY 1962

FOR I TED STATES GOVERNMENT USE ONLY

A68a

UNITED STATES CIVIL SERVICE COMMISSION
ST. LOUIS REGION INVESTIGATIONS DIVISION

REPORT OF RECORD SEARCH

NAME	ADDRESS
RICHARD JOSEPH DeFINA	220-31 Union Turnpike Flushing, New York
DATE OF BIRTH	**PLACE OF BIRTH**
January 12, 1936	Brooklyn, New York
POSITION	**AGENCY**
Cust. Sec. Off. Sky Marshal	Treasury (Bureau of Customs)
TYPE OF CASE	**CSC CASE SERIAL NO.**
Full Field	2.23.7..4166
DATE OF RECORD SEARCH	**NAME OF RECORD REVIEWER**
February 4, 1971	[redacted]

This report is the property of the United States Civil Service Commission and may be recalled at any time. Transfer of this report to another agency or access to it outside your agency is not permitted without prior-consent of the Commission.

Information in this report has been obtained under a pledge of confidence. The sources of information must not be disclosed to the person investigated. He may not be confronted with any information in this report in a manner which would reveal or permit him to deduce the source of the information. Exceptions to this rule are (1) information of public record which could be obtained or request by the general public, and (2) information from Federal personnel records which could be obtained on request by the employee. Information from law enforcement records, including place of arrest and conviction, may be used provided the law enforcement office is not specifically named as the source.

The report and its contents must be safeguarded in a manner to prohibit its unauthorized disclosure. Authorized access is limited to those persons who by virtue of their official duty require access to the information contained therein.

NATIONAL PERSONNEL RECORDS CENTER, GENERAL SERVICES ADMINISTRATION, ST. LOUIS, MISSOURI

Branch of Service:	Air Force
Service Serial Number:	11 312 339
Date Entered Service:	12-16-55
Date of Separation:	9-15-59
Type of Separation:	Honorable, Released from active duty
Grade at Separation:	Airman Second Class
Highest Grade Held:	Airman Second Class
Dates in Reserve Comps:	9-16-59 to 12-15-61 Honorable
Prior Active Service:	None

REMARKS: Military duty: Aircraft Electronic Navigation Equipment Repairman. Subject satisfactorily completed a course as Aircraft Electronic Navigation Equipment Repairman in December 1966.

DEROG. INFO: None.

FOR UNITED STATES GOVERNMENT USE ONLY

A 69a

FOR UNITED STATES GOVERNMENT USE ONLY

UNITED STATES CIVIL SERVICE COMMISSION

REPORT OF INVESTIGATION

NAME	ADDRESS
RICHARD JOSEPH DeFINA	220-31 Union Turnpike Flushing, New York
DATE OF BIRTH January 12, 1936	PLACE OF BIRTH Brooklyn, New York
POSITION Customs Sec. Off. Sky Marshal	AGENCY Treasury
TYPE OF CASE Full Field	CSC CASE SERIAL NO. 2.23.71.4 166
PLACE(S) OF INVESTIGATION	PLACE(S) OF RECORD SEARCH Brooklyn, New York
DATE(S) OF INVESTIGATION January 26, 27, 1971	NAME OF INVESTIGATOR [redacted]

Information in this report has been obtained under a pledge of confidence. The sources of information must not be disclosed to the person investigated. The information must not be discussed with him in a manner which would reveal or permit him to deduce its source. However, these restrictions do not apply to (1) information of public record; (2) information from law enforcement records; and (3) information from Federal personnel records which could be obtained on request by the employee.

This report is the property of the United States Civil Service Commission and may be recalled at any time. Transfer of this report to another agency is not permitted without prior consent of the Commission. The report and its contents must be safeguarded in a manner to prohibit unauthorized disclosure. Access is to be limited to those persons whose official duties require it.

The testimony of all witnesses is given in substance unless indicated by quotation marks.

BROOKLYN, NEW YORK

[redacted]

NEW YORK CITY COMMUNITY COLLEGE, Office of the Registrar, 300 Jay Street. Record information provided by [redacted]

Richard DeFina, born January 12, 1936, first entered this institution on January 21, 1956. He took but one evening course. The record seems to indicate that he reentered on January 16, 1960 as a full-time student and attended continuously until June 14, 1962 when he received his A. A. S. degree in Electrical Technology. He was a day time student for some semesters and, during other semesters, was an evening student. In any case, he did attend full-time. I can find no indication that he attended full-time prior to January, 1960. However, he could have

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attended one of the adult education courses and no records would have been maintained. He previously graduated from Colby Academy in June, 1953. He resided at 315-101st Street in Brooklyn. No additional information appears and nothing appears of a derogatory nature. We are not permitted to divulge additional information concerning grades.

PH:rmk:1/29/71

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75-1170

A 71

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

6-10-75

RICHARD J. DE FINA,

Plaintiff,

-v-

VIRGINIA M. ARMSTRONG, et al.,

Defendants.

ANSWER

75 Civ. 1564 (WK)

PRO SE

Defendants, by their attorney, Paul J. Curran, United States Attorney for the Southern District of New York, for their answer to the complaint:

1) Deny the averments set forth in paragraph 1 of the complaint except admit that on or about March 21, 1975 the United States Civil Service Commission released certain information pertaining to plaintiff and requested by him pursuant to the Freedom of Information Act.

2) Deny the averments set forth in paragraph 2 of the complaint except admit that jurisdiction is purportedly based on the Freedom of Information Act, 5 U.S.C. §552.

3) Deny knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraph 3 of the complaint except admit that the defendants named therein are correctly identified with respect to their official capacities.

4) Deny the averments set forth in paragraphs 4 and 5 of the complaint.

NLG:n
75-1170

AS AND FOR A FIRST
COMPLETE AFFIRMATIVE DEFENSE

5) The complaint fails to state a claim over which this Court has jurisdiction.

AS AND FOR A SECOND
COMPLETE AFFIRMATIVE DEFENSE

6) The complaint fails to state a claim upon which any relief can be granted.

AS AND FOR A THIRD
COMPLETE AFFIRMATIVE DEFENSE

7) The individually named defendants acted within the scope of their respective official capacities and are not proper parties to this action.

AS AND FOR A FOURTH
COMPLETE AFFIRMATIVE DEFENSE

8) The complaint fails to state a claim upon which any relief can be granted on the ground that the information which plaintiff seeks is exempt from disclosure pursuant to the Freedom of Information Act.

WHEREFORE, defendants demand judgment dismissing this action in its entirety, together with the costs and disbursements of this action and such other and further relief as is just.

Dated: New York, New York
June 10, 1975.

PAUL J. CURRAN
United States Attorney for the
Southern District of New York,
Attorney for Defendants

By: _____
NATHANIEL L. GERBER
Assistant United States Attorney
Office and Post Office Address:
United States Courthouse Annex
One St. Andrew's Plaza
New York, New York 10007
Telephone: (212) 791-1946

TO: RICHARD J. DE FINA
220-31 Union Turnpike
Flushing, New York 11364

A 73

JUDGE KNAPP

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

75 CIV. 2119

RICHARD J. DE FINA,

75 Civ.

Plaintiff,

- v. -

CLARENCE M. KELLY, individually and as Director of the Federal Bureau of Investigation; "JOHN" BARRY and "JOE" HENRY, individually and as Special Agents of the Federal Bureau of Investigation, whose true first names are presently unknown, MARY DOE #1 and MARY DOE #2, secretaries, whose true names are presently unknown, and JOE DOE, individually and as Assistant United States Attorney, mentioned in Ex A, whose true name is presently unknown,

Defendants.

FIRST: On May 2, 1975, plaintiff, received from the defendant, CLARENCE M. KELLY, Director of the Federal Bureau of Investigation, exhibit A, attached hereto, which Exhibit states that plaintiff is a "technical" violator of the "extortion statutes" and that "prosecution was not warranted", effectively making him guilty of the infamous crime of extortion, without his knowing it or being given due process. This Exhibit A was filed in the FBI criminal records on February 24, 1960, and only made known to the plaintiff, after the Director of the FBI had defaulted in the action for plaintiff's file made under the Freedom of Information Act, and forcing plaintiff to serve a summons and complaint upon Kelly by the U.S. Marshal by certified mail on April 24, 1975. The action was brought on behalf of the plaintiff by Stanley Faulkner, who only represents plaintiff in the Freedom of Information action. On April 30, 1975, Judge Bruchhausen of the U.S. District Court, Eastern District, without any notice dismissed the action. May 1, 1975, the defendant, Director, sent ex A, with many parts excised and containing highly libelous statements, against both plaintiff and his attorney in that action.

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Plaintiff is informed by Miss De Fina, that Assistant U. S. Attorney Mr. Kramer phoned her on May 2, 1975 to inform her that Judge Bruchhauser had dismissed the summons and complaint, without notice to him, and that if she moved for re-consideration he would not oppose her as he was "mystified" as to why Judge Bruchhauser had dismissed the summons and complaint under the Freedom of Information Act.

This action which was dismissed also named as defendants, the Department of Justice; the U.S. Department of Justice, Drug Enforcement Administration and the Veterans' Administration. According to the U.S. Marshal's Office these defendants were also served prior to Judge Bruchhauser's dismissal and after the dismissal, all the defendants but the Veterans' Administration replied. See Exhibits A and B. Plaintiff at the present time is out of Court on his rights under the Freedom of Information Act and only has Ex A & B, no names of accusers, no full statements as to how they got their false, wrongful and malicious charges and statements, all in violation of plaintiff's Civil Rights, right to due process of law under the Fifth and Fourteen Amendments to the United States Constitution and has made him a second class citizen and as far as employment in his field of electronics is concerned he is "legally dead".

In Ex A, the defendant, Clarence M. Kelly" admits that the U.S. Civil Service, by Mr. Drummond sent the FBI report made part of Exhibit A to the defendant Director to send to plaintiff's attorney and that the defendant director, Mr. Kelly, reviewed it "..and with appropriate deletions" sent it to plaintiff's attorney. See Ex A consisting of letter and three page report.

This ex. A explains why plaintiff was suddenly told to resign "due to his eye-sight" from the sky marshal job ; 200 letters seeking employment and getting either rejections or silence over the years since his graduation from Community College, and 34 jobs, and employment agencies conceding he was technically highly qualified then suddenly informing him they had "no jobs".

The infamous file of the FBI, unknown to plaintiff, was given to the Civil Service Commission, who in turn, never revealed it to plaintiff although over the years plaintiff sought to get a hearing as to why he could not get a civil service position, made an appeal in writing to be heard, which appeal was denied and secretly they kept up the file furthering their conspiracy to keep plaintiff unemployed and which file was given out as seen by Ex A, and or was most likely to be given out as most former employers requested a secret clearance.

The true facts are not found in Ex A but are these: Miss DeFina, as an attorney tried military cases, which were very unpopular with the military and for which she receive either no fee or very little, and found herself being falsely and secretly disbarred. She sought to get the right to be heard, time to know the charges and answer them, so she informed me she was being denied this right and to give credence that the truth was not the truth, a Jesuit priest, Joseph Snee of Georgetown University was the person picked to accomplish this.

Miss DeFina had an accident in the subway and as a result was quite ill on February 18, 1960. She was trying to find out if they had given her the right to answer and she was shut off. I decided to phone and try to get an answer as on November 23, 1959 when I returned from over seas I had phoned the Jesuit, Joseph Snee as to why Miss DeFina could not be heard or know what was being said about her. He, Snee, promised me that he would give my mother, Miss DeFina a chance to be heard, so I decided to call the U.S. Court of Military Appeals. I got the same reception as my mother.

A few hours later, February 18, two FBI agents came. They were the defendants, Barry and Henry. They told Miss DeFina that they were told that she had received her order of disbarment (which was false) and as a result I had made threats to some woman. I denied it, I never made threats. Miss DeFina said she would prove it to the FBI agents and make a call to the U.S.C.M.A. a Mrs. Bartel, according to Miss DeFina answered and she yelled quite loudly, enough for us to hear that she had told Miss DeFina not to call the Court and she slammed

the receiver. A Protestant Minister, living next door, a David Head, friend of the Roman Catholic Priest, our Pastor and of the military came into our home. The two defendant FBI agents appeared very sympathetic, I was very calm, not emotional and my moth r was very ill and crying. Mr. Head told the FBI agents I would like to speak to them outside. They went outside and spoke very quietly on our patio for about one-half hour and left. As at one point the agents had told me to forget about it I did until I got a document under the Freedom of Information Act from the Civil Service that I had a FBI file and then on May 2, 1975, I received the attached Ex A.

2. Fifteen years of mental anguish, held up to contempt, going from job to job, unable to marry or have the rights of a citizen to life as promised and guaranteed by our Constitution, given an infamous criminal tag in an FBI file as "extortionist", lost of earning, and respect I earned, caused my damages in the sum of $1,000,000.00.

SECOND: This Court has jurisdiction under the due process of law guaranteed by the Fifth and Fourteen Amendments to the United States Constitution, my rights as a Citizen of the United States, and my Civil Rights, all of which were violated by these defendants.

THIRD: Plaintiff's name is RICHARD J. DE FINA, address, 220-31 Union Turnpike, Flushing, New York, 11364.

FOURTH: Defendant, CLARENCE M. KELLY, Director of the Federal Bureau of Investigation, Washington, D. C.

FBI Agents, Defendants, "John"Barry and "Joe" Henry true first names presently unknown to plaintiff but whose address plaintiff is informed is F.B.I. New York City, New York.

"MARY DOE #1 and MARY DOE" #2 are stated in Exhibit A to be my accusers, their names and addresses are presently unknown to me.

"JOE DOE" mentioned in Exhibit A as the U.S. Assistant Attorney who found me technically guilty of extortion, his true name and address is presently unknown to me.

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FIFTH: From the defendant, CLARENCE M. KELLY, Director of the FBI a copy of my complete file and my accusers and the right to an injunction to restrain further publication that I violated the Extortion law and a final decision destroying the said libelous file, in that it has violated due process of law and is illegal; from all the other defendants, money damages for their conspiracy to ruin my life, reputation and living and causeing untold suffering and mental anguish in the sum of $1,000,000.00

Richard J. DeFusco

Sworn to before me this

5th day of May 1975

Madeline McFuss

NOTARY PUBLIC
No. 41-5959[illegible]
Term Expires March 30, 1976

OFFICE OF THE DIRECTOR

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

Washington, D.C. 20535

May 1, 1975
REGISTERED RETURN RECEIPT

Ms. Madeline E. DeFina
Attorney At Law
220-31 Union Turnpike
Flushing, New York 11364

Dear Ms. DeFina:

This is to acknowledge receipt of a Freedom of Information request referral from Robert J. Drummond, Jr., Director of the United States Civil Service Commission, concerning your client, Richard J. DeFina.

Mr. Drummond's letter enclosed a memorandum originating in the FBI concerning an extortion investigation regarding your client. This document has been reviewed and, with appropriate deletions, is enclosed. The identities of certain parties and information not relevant to your client's request have been deleted under Title 5, United States Code, Section 552(b)(7)(C).

You may appeal my decision in this matter within thirty days by writing to the Attorney General, Attention: Freedom of Information Appeals Unit, Washington, D. C. 20530. The envelope and letter should be marked "Freedom of Information Appeal." Additionally, judicial review is thereafter available either in the district in which you reside or have your principal place of business or in the District of Columbia, the location of the records to which you seek access.

Sincerely yours,

CLARENCE M. KELLEY
Director

Enclosure

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Report
File No.

February 24, 1960

* * * RICHARD DEFINA

* * * * *

* * * Victims

On February 17, 1960, * * * of the United States Court of Military Appeals, (CMA) advised that on that date Richard DeFina, son of Madeline Defina had telcohonically contacted * * * of CMA, and threatened her with bodily harm. * * * said the telephone call apparently had been made from Brooklyn, New York.

* * * RICHARD DEFINA

* * * * *

* * * Victims

* * * said on the morning of February 17, 1960, * * * called her regarding the status of the proceedings against her. She said she attempted to find someone to talk to * * * but while doing so, * * * hung up. Shortly thereafter, Richard DeFina called back and said "what are you doing to my mother? If this continues, I will come down and put a bullet through your head." * * * advised that Richard DeFina used extremely profane language and hung up after making this threat.

* * * * *

advised that on the morning of February 17, 1960, Richard DeFina had called her and when she attempted to tell him that he should try to calm his mother, he told her that his mother was right but he know that she would be disbarred. He used extremely abusive and profane language and ended the conversation with the threat that he would come down and kill her and * * * and then go over to CMA and take care of them.

* * * advised that * * * at the request of * * * had reviewed the proceedings at CMA on February 15, 1960, to determine whether she could obtain an extension of time on the show cause order. This was * * * only connection with this matter, and he said he had never been threatened personally.

On February 17, 1960, * * * Assistant United States Attorney, District of Columbia, requested that * * * and Richard DeFina be interviewed before making a final decision concerning prosecution.

On February 18, 1960, Special Agents of the New York Office interviewed * * * and Richard DeFina both of whom admitted making the telephone calls in question. Richard DeFina, however, denied making any threats or the use of abusive language. He said he had no intention of going to Washington, D.C., to shoot or otherwise harm anyone. Both * * * and Richard DeFina appeared to be extremely emotional during the interview and * * * related many incidents to show how she had been persecuted in the past. In this regard she advised that several years ago she instituted a suit against * * * and * * * for abusive treatment by army personnel. * * * also advised that she is divorced but seeking an annul-

ment. She said * * * who investigated her annulment petition, told her to consult a psychiatrist. She also said she had filed a complaint against * * * with the Pope and had filed a slander suit against her parish priest because he told her she was "insane".

On February 18, 1960, Assistant United States Attorney * * * Eastern District of New York, declined prosecution stating that if threats were made, they could not be proven.

On February 19, 1960, Assistant United States Attorney * * * advised that while there is a technical violation of the extortion statutes the fact that Richard DeFina was emotionally upset over the disbarment of his mother tends to negate the seriousness of the throat and considering all the circumstances, he said prosecution was not warranted.

OFFICE OF THE ATTORNEY GENERAL

WASHINGTON, D.C. 20535

Apr. 30, 1975

Ms. Madeline E. DeFina
Attorney at Law
220-31 Union Turnpike
Flushing, New York 11364

Dear Ms. DeFina:

This is in further response to the pending administrative appeal under the Freedom of Information Act of your client, Richard J. DeFina, resulting from the partial denial of his request to the Drug Enforcement Administration for access to records pertaining to himself.

After careful consideration of this appeal, I have decided to affirm the action of D.E.A. The preliminary background investigation that was conducted on your client at the time of his application for a position with the Bureau of Narcotics and Dangerous Drugs and other internal memoranda relating to the personnel selection process are exempt from mandatory release under the Act pursuant to several of the statutory exemptions. Sensitive internal procedures regarding personnel selection and the manner in which these investigations are conducted are covered by 5 U.S.C. 552(b)(2) [internal rules and practices of an agency]. Evaluations and recommendations of personnel involved in the hiring process are intra-agency memoranda to which 5 U.S.C. 552(b)(5) applies. Such investigations involve obtaining information from other individuals under circumstances of at least implied confidentiality which make applicable 5 U.S.C. 552(b)(4). Finally, because such background investigations are conducted for law enforcement purposes, 5 U.S.C. 552(b)(7)(C) and (D) are applicable to protect the identities of persons who furnish the information to us in confidence and to keep them free from unwarranted invasions of their personal privacy.

I fully understand and sympathize with the desire of an individual, such as your client, to obtain access to the information concerning him which was furnished to the Department during a preliminary background investigation. On the other hand, the necessity for protecting the integrity of this investigative process leads me to conclude that it would be inappropriate to make a discretionary release of the report of investigation, the information furnished to us in the course of the investigation, or the internal memoranda pertaining to the decision not to offer a position to Mr. DeFina.

My action on this appeal is also intended to constitute a final denial of that portion of your request for records pertaining to Mr. DeFina addressed to the United States Civil Service Commission which was referred by that Agency to this Department for decision.

In the course of your several communications to this Department you have raised several other matters that I feel should be addressed by me. The excisions made to the copy of the letter to Congressman Rosenthal concealed only the name and position of the individual who signed the letter and the *internal* carbon copy distribution system of that particular office of the Bureau of Narcotics and Dangerous Drugs. These minor excisions were made pursuant to 5 U.S.C. 552(b)(2) and (b)(6) which protect from mandatory relase, respectively, internal agency practices and the privacy of agency personnel *vis-a-vis* third parties. I assure you, however, that copies of that letter were not sent to any other agencies of the Government.

You have also expressed concern that Mr. DeFina's name is in our files pertaining to law breakers. The only investigation which has ever been conducted on Mr. DeFina by this Department is the one I have already discussed in this letter. It is maintained by the Drug Enforcement Administration, along with other applicant files, as a personnel file; it is not part of or even co-located with D.E.A.'s operational files. He has never been the subject of any criminal investigation by this Department.

Mr. DeFina was not selected for a position with the B.N.D.D. on the basis of a comparison of his qualifications with other applicants. There was and is no conspiracy against him within or involving this Department, either to

keep him from obtaining employment with the Government or for any other purpose. As to the nature of the relationship between Mr. DeFina and yourself, the former interest of the Department was extremely limited. When an individual is being considered for appointment to a sensitive position, *any* discrepancy between the information he furnishes concerning himself and that which is obtained from other sources must be resolved. In the course of the preliminary background investigation, several other persons referred to you as his mother, rather than as his sister. If the explanation for this discrepancy had been, for example, that you were his natural mother, but that he had been adopted by your parents, that almost certainly would have been the end of the matter.

Lastly, you have alleged that a particular document which you have described is being withheld from you without justification. No such document has been located either in the file pertaining to Mr. DeFina's employment application or elsewhere. Accordingly, the action of D.E.A. in this regard did not constitute a denial of access, because there can be a denial only where there is a record.

Although I have not been able to act favorably on your client's appeal, I hope that the information I have furnished to you will be of some value.

Pursuant to 5 U.S.C. 552(a)(4)(B), judicial review of my decision is available to your client in the District Court of the United States in the judicial district in which he resides, or in which he has his principal place of business, or in the Southern District of New York (where the records he seeks are located), or in the District of Columbia.

Sincerely,

EDWARD H. LEVI
Attorney General

NLG:am
75-1633

A 85

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT
FILED 7-8-75
S.D. OF NEW YORK

RICHARD J. DE FINA,

Plaintiff,

-v-

CLARENCE M. KELLEY, et al.,

Defendants.

ANSWER

75 Civ. 2119 (MLB)

Defendants, by their attorney Paul J. Curran, United States Attorney for the Southern District of New York, for their answer to the complaint:

1. Deny knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraph "FIRST" of the complaint except admit that on or about May 1, 1975 the Federal Bureau of Investigation released certain information to plaintiff which is annexed to the complaint as Exhibit A and refer thereto for a correct description of its contents, and admit further that on April 30, 1975 the Honorable Walter Bruchhausen, Senior United States District Judge for the Eastern District of New York dismissed an action brought by plaintiff against the Federal Bureau of Investigation, the Department of Justice, the Drug Enforcement Administration and the Veterans Administration for lack of jurisdiction by reason of sovereign immunity.

2. Deny the averments set forth in paragraph "SECOND" of the complaint.

3. Deny knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraphs "THIRD" and "FOURTH" of the complaint except

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NLG:am
75-1633

admit that defendant Clarence M. Kelley is the director of the Federal Bureau of Investigation.

4. Deny the averments set forth in paragraph "FIFTH" of the complaint.

AS AND FOR A FIRST
COMPLETE AFFIRMATIVE DEFENSE

5. The complaint fails to state a claim over which this Court has jurisdiction.

AS AND FOR A SECOND
COMPLETE AFFIRMATIVE DEFENSE

6. The complaint fails to state a claim upon which any relief can be granted.

AS AND FOR A THIRD
COMPLETE AFFIRMATIVE DEFENSE

7. The individually named defendants acted within the scope of their respective official capacities and are not proper parties to this action.

AS AND FOR A FOURTH
COMPLETE AFFIRMATIVE DEFENSE

8. The Court lacks jurisdiction over the subject matter of this action on the ground that the records sought have been furnished to plaintiff with appropriate deletions of material exempt from compelled disclosure pursuant to the Freedom of Information Act, 5 U.S.C. § 552(b).

NLG:am
75-1633

WHEREFORE, defendants demand judgment dismissing this action in its entirety, together with the costs and disbursements of this action and such other and further relief as is just.

Dated: New York, New York

July 7, 1975.

PAUL J. CURRAN
United States Attorney for the
Southern District of New York,
Attorney for Defendants

By: _____
[redacted]
Assistant United States Attorney
Office and Post Office Address:
United States Courthouse
One St. Andrew's Plaza
New York, New York 10007
Telephone: (212) 791-1[redacted]

TO: RICHARD J. DE FINA
220-31 Union Turnpike
Flushing, New York 11364

UNITED STATES DISTRICT FOR THE
SOUTHERN DISTRICT OF NEW YORK

- x

RICHARD J. DE FINA,

Plaintiff,

v.

RITCHEY WILLIAMS, individually and as Chief, Division of Reimbursable Investigations, U.S. Civil Service Commission, ITT FEDERAL LABORATORIES a Division of International Telephone and Telegraph Corp., Thomas J. Minogue, individually and as employee of ITT Federal Laboratories, "GEORGE DOE" and "JOHN DOE" whose true names are presently unknown,

Defendants.

- x

INDEX NO. 2362

Judge Lasker

AMENDED COMPLAINT WITH REQUEST FOR INJUNCTIVE AND MANDAMUS RELIEF

PLAINTIFF REQUESTS TRIAL BY JURY

I

1. Jurisdiction is founded on U.S.C. Title V Section 552; invasion of privacy, in violation of the IX Amendment of the Constitution of the United States; U.S.C. Title 18 Section 1001, making false records and statements part of a U.S. Civil Service file in pursuance of a conspiracy to prevent plaintiff from obtaining employment with any U. S. Government agency or any other employer.

II

2. Parties: Plaintiff, Richard J. DeFina, resides at 220-31 Union Turnpike, Flushing, New York and has an Associate Degree in Electronics.

3. Ritchey Williams is the Chief of the Division of

Reimbursible Investigations, U. S. Civil Service Commission, Washington, D. C. and is in charge of investigations and maintaining of the libelous and ficitious file of the plaintiff.

4. Defendant ITT Federal Labs was plaintiff's employer from September 17, 1962 until July 13, 1964, laid off due to lack of work and rehired on or about June 7, 1965 and forced into resigning on July 8, 1965 and whose employees, defendants in this action, changed the dates to July 1964 to July 1965 and made these dates part of the file maintained by the defendant, Ritchey Williams. Defendant's address is Clifton, New Jersey.

5. The defendant, Thomas J. Minogue, Director of Industrial Relations, 500 Washington Avenue, Nutley, New Jersey.

6. Defendants, George Doe and John Doe, are employees of defendant ITT Fed Labs, whose names are deleted from the file which is the subject of this action and whose addresses are unknown.

III

AS AND FOR A FIRST CAUSE OF ACTION AGAINST THE DEFENDANT RITCHEY WILLIAMS

7. The defendant, KITCHEY WILLIAMS, on information and belief, was in charge of sending out investigators to make full field investigation on the plaintiff in 1971, 1973 and 1975. The investigators and the defendant, Ritchey Williams decided in each case that plaintiff was to be forced out of his position as Sky Marshal in 1971, denied a position with the Drug Enforcement Agency in 1973 and denied a position with the Federal Aviation Administration in 1975, all based on false records, false statements and refusing plaintiff the right to be heard or to know what was in the file relating to him.

8. In January 1971, plaintiff took a "walk in" test which was being given by the Treasury Department, Bureau of Customs, with the understanding, if accepted, a full field investigation would take place while plaintiff was in training. If anything turned up derogatory to the plaintiff he would be dismissed. Plaintiff passed very difficult written tests, psychological tests, physical and as to eye sight there were no set requirements and plaintiff was sworn in as a U.S. Marshal on the Sky Marshal program.

9. Plaintiff went into training at Fort Belvoir, was chosen as the class leader and was about to graduate when on February 9, about 9:30 p. m. plaintiff was sent for and told that his vision did not meet requirements and that he would be dismissed if he did not resign. Plaintiff resigned on February 10, 1971.

10. On or about May 14, 1975, plaintiff received forty seven numbered pages and about six forms, deleted as to all names and other important material, from Robert J. Drummond, Director of U. S. Civil Service Commission, Bureau of Personnel Investigations, as a result of a demand made under U.S. C. Title 5 Sec. 552.

11. Part of these documents revealed the true reason for plaintiff's forced resignation from his sky marshal position on February 10, 1971, and plaintiff incorporates the attached exhibits marked A1 to A 5, by reference as if fully set forth here. It was the false statements made by the defendants, ITT FED. LABS and its employees, acting within the scope of their employment which cost plaintiff his position and which he now seeks to be rein-

stated in.

12. The false statements made by the employees of the defendant, ITT Fed Labs., were accepted without justification, illegally and wrongfully, in pursuant of the conspiracy to keep plaintiff unemployed, and the defendant, Williams, or his assistants, wrote in their report, see the attached Ex. A^1 that attacked the credibility of the plaintiff by writing, "July 1964 to July 1965. Discrepancy in claimed dates of employment."

13. According to the attached exhibits A^1 to A^5 the investigation of the employees and personnel department of the defendant, ITT FED LABS was conducted on February 3,4,8, and concluded see Ex A^5 on 2/9/71. This was the night, 2/9/71, that plaintiff was sent for and deceitfully, told the wrong reason for being forced into resigning, it was not his vision but the false statements, fictions, inflamatory and criminal conspiracy that forced his resignation. See Ex B, attached hereto and made part of this complaint as if fully set forth herein.

14. That for years, neighbors, friends, and numerous other persons, including harassing phone calls, break-ins into hishome and withholding of mail kept plaintiff insisting and having his attorney, Madeline DeFina'try to find out what was the slander and libels being spread about plaintiff and by whom were they being spread. The Civil Service Commission, including U.S. Civil Service Commission in Washington refused to give plaintiff a hearing and deceitfully and falsely stated that there was "nothing derogatory in his files "there were no jobs available see Ex C. attached hereto and made part of this

complaint as if fully set forth herein.

15. The contemptuous attitude of the members of the U.S. Civil Service Commission was such that there was no question that terrible libels and slander was being spoken against the plaintiff, the treatment shown him was that of an outcast.

16. Plaintiff is requesting the full statements from the defendant, Williams, without any deletions, under the Freedom of Information Act so that he can obtain redress and refute the libels and false records and eventually have the Court order the libelous and false records destroyed.

IV.

AS AND FOR A FIRST CAUSE OF ACTION AGAINST THE DEFENDANTS, ITT FED. LABS, THOMAS J. MINOGUE, GEORGE DOE AND JOHN DOE.

17. Plaintiff repeats and reiterates each and every statement set forth in paragraphs numbered 1 to 16 as if fully set forth here.

18. That on or about May 14, 1975, plaintiff came into possession of written libels and false statements (See Ex. A^1 to A^5) made by the defendant, ITT FED LABS, employees acting within the scope of their employment and to bring gain to themselves and to their employer, ITT FED LABS, by joining in a conspiracy of libels, false statements and records to bring plaintiff into public contempt, ridicule and deprive him of employment and the right to earn a living in his field of expertise, electronics. The libels were spoken in presence of others, published and read so that plaintiff cannot get employment or a hearing to refute the libels and false records, See Ex C.

19. The defendant, THOMAS J. MONOGUE, threatened to ruin plaintiff, to his sister and attorney, Madeline DeFina, on July 8, 1965. The defendant, Thomas J. Monogue, had a woman phone plaintiff's attorney and wanted to speak to only Miss DeFina. The defendant, Monogue then told plaintiff's attorney that he waited "three years" to tell her "off" that what the Military had done to her was nothing compared to what he was going to do to her through ITT FED LABS, and to the plaintiff, we were "finished"

20. That on or about January 25, 1963, I was held up to humiliation when I was called into the office of ITT Federal Labs. and questioned by two men as to my being adopted. I referred them to my attorney, Miss DeFina.

21. The defendant, Thomas J. Monogue alleged that he was going to investigate on behalf of the defendant, III Fed. Labs, thus invading my privacy, as how appears by Ex A^4 that the defendant, ITT Fed Labs, through some person, name deleted, "....made some discreet inquiries..."It also included some agency calling Miss DeFina, that my birth was being investigated.

22. From the time ITT Fed Labs, through its employees, acting on behalf of the defendant, ITT, started casting doubt on my birth until the present, harassing calls are made to Miss DeFina concerning my birth one made on February 9, 1971, at midnight and this is now confirmed in the documents I received, one sheet which is attached hereto as Ex. A^4 states, "...she had him out of wedlock. He used his grandmother's name as his mother....." These acts of the defendant has caused repeatedly to be put into my file that my parentage is in doubt.

V.

AS AND FOR A CAUSE OF ACTION AGAINST ALL OF THE DEFENDANTS.

25. That all of these defendants are in pursuance of their conspiracy against the plaintiff continuing a perpetual file of libels, fictions and false statements. The defendant, employee of the U. S. Civil Service Commission knows the truth. Plaintiff's birth was legimate, he is the son of Rose and Rocco DeFina. The defendant, Minogue knows the truth, and the President of ITT FED LABS, Mr. Benino was told by registered letter back in 1963 to get the employees to stop the slander imputing immorality but the answer of the defendants are contained in Ex A[4]. They will not be stopped.

26. As a result of the publication of the false and defamatory matter the plaintiff was greatly injured in his reputation, credit, fame, fortune and in his standing in the communities in which he lived and now lives, all to his damages in the sum of $1,000.000.00.

VI

27. The plaintiff seeks from the defendant, Ritchey Williams, a complete undeleted file, that the libels and false statements be destroyed, that plaintiff be reinstated as a sky marshal, as the investigation on him conducted by the defendant, williams was false and untrue, injunctive relief to prevent the keeping of these libels, including the false file of the F.B.I. which this defendant mentions in his investigative reports, and a "62" file and other derogatory matter branding plaintiff unfit for employment.

28. As against the defendant, ITT Federal Laboratories, an order, compelling the defendant to correct its false files to reflect the true dates of plaintiff's employment as of September 17, 1962 to July 13, 1964 and from about June 7, 1965 to July 8, 1965, so that the cloud over plaintiff, that he has told untruths about his employment will cease, that defendant be enjoined from the stating of the falsehood that plaintiff was suspended, which is false and malicious, and said to do great damage to plaintiff's right to obtain employment; and that the libel pre se, pretaining to his birth, be enjoined, and to pay damages in the sum of $1,000,000.00 with the other defendants.

29. As against the defendant, THOMAS J. MINOGUE, punitive damages be awarded, for his conduct in this conspiracy, to cast doubt on morality and integrity and to do it after threatening to do it and after appeals were made to his employer, Mr. Benino, President of ITT FED. LABs, and to him, Thomas J. Minogue.

30. That plaintiff be given his right under the Freedom of Information Act to a speedy trial on this criminal conspiracy that takes in so many Federal Agencies with the U. S. Civil Service Commission.

Dated: Flushing, New York, July 29, 1975.

MADELINE DE FINA,
Attorney for Plaintiff,
220-31 Union Turnpike,
Flushing, N. Y.

Tel. 479-1555

A962

FOR UNITED STATES GOVERNMENT USE ONLY

UNITED STATES CIVIL SERVICE COMMISSION

REPORT OF INVESTIGATION

NAME	ADDRESS
RICHARD JOSEPH DE FINA	220-31 Union Turnpike Flushing, New York
DATE OF BIRTH January 12, 1936	**PLACE OF BIRTH** Brooklyn, New York
POSITION Customs Sec. Off. Sky Marshal	**AGENCY** Treasury (Br. Customs)
TYPE OF CASE Full Field	**CSC CASE SERIAL NO.** 2.23.71.4 166
PLACE(S) OF INVESTIGATION Clifton and Paramus, New Jersey	**PLACE(S) OF RECORD SEARCH**
DATE(S) OF INVESTIGATION February 3,4,8, 1971	**NAME OF INVESTIGATOR** [redacted]

Information in this report has been obtained under a pledge of confidence. The sources of information must not be disclosed to the person investigated. The information must not be discussed with him in a manner which would reveal or permit him to deduce its source. However, these restrictions do not apply to (1) information of public record; (2) information from law enforcement records; and (3) information from Federal personnel records which could be obtained on request by the employee.

This report is the property of the United States Civil Service Commission and may be recalled at any time. Transfer of this report to another agency is not permitted without prior consent of the Commission. The report and its contents must be safeguarded in a manner to prohibit unauthorized disclosure. Access is to be limited to those persons whose official duties require it.

The testimony of all witnesses is given in substance unless indicated by quotation marks.

SYNOPSIS

Period Covered: July, 1964 to July, 1965. Discrepancy in claimed dates of employment. Question of emotional stability. Local law enforcement search, no record. Credit bureau search, no record. Date of birth corroborated.

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A. A97a

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CLIFTON, NEW JERSEY

[redacted]

ITT LABORATORIES, 150 Kingsland Avenue. Record information furnished by [redacted].

The employment file of Richard Joseph DeFina shows he worked for this company as an Electronic Tester from July 13, 1964 to July 8, 1965. His Social Security number is 108-28-5898. He was born January 12, 1936 but the place is not given. He was single and resided at 315-101st Street, Brooklyn, New York. He resigned of his own accord but he is not eligible for rehire.

He submitted a short letter of resignation, effective July 8, 1965 and said the reasons were given in an attached letter. The attached letter is signed by Madeline DeFina. She starts the letter off with, "I advised my son and client to resign" and she goes on for pages giving reasons why she made this decision. She blamed management and the union for her son's dissatisfaction with the job and claims that foul language was used against her and her son. I did not note it at the time but I now realize that he had listed Madeline as a sister. This was on his application. He showed his father's name as Rocco and His mother's name as Rose.

The file shows that he had been suspended on one occasion for insubordination but the date and details are not listed.

On his application he shows that he attended New York City Community College from 1959 to 1962 and that he had received a degree as Associate E. T. He then attended the City College of New York from 1963 and was still attending that college at the time he was hired in July, 1964. He shows no previous employments.

[redacted]

[redacted] Richard DeFina worked here from July, 1964 to July, 1965, [redacted] He was a constant source of irritation, a troublemaker all the way around. [redacted] know nothing of his family life except that his mother or sister was also a troublemaker. The personnel records show his mother as Rose but I was always under the impression that his mother was Madeline DeFina. She was constantly calling his office complaining about the treatment Richard DeFina was receiving, both by the company and the union. At one time she threatened to sue the company and the union. I believe that was at the time he was suspended for insubordination but I no longer remember those details and they are not

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given in the personnel file. There was never any question of drinking or drugs or narcotics on the part of Richard and there was no reason to question his honesty or moral conduct. He was healthy, physically, but as far as maturity and emotional stability are concerned, I assure you his actions were mighty peculiar. I recall one instance where he complained that his hands were being cut from wires which he used in his occupation as electronic tester. He asked for protective clothing and was issued a pair of white cotton gloves. These are standard gloves issued to all the employees who need them. He complained that he thought these gloves were for women and that they were issued to him in order to ridicule him.

He finally submitted a letter of resignation in July, 1965. As the file shows, he submitted a letter signed by Madeline DeFina, along with his letter of resignation giving all the reasons why he was leaving the company. I note that she referred to him as her son and that raises a question in my mind as to just whose son he really is. In any case we were mighty glad that he left and we would not rehire him.

There was never any question of his loyalty to our country but I would hesitate to trust him with any information concerning our security. He may be alright for some jobs but I would not recommend him for any assignment where emotional stability is a major factor.

[redacted]

Richard DeFina worked [redacted] as an electronic tester, for about one year during 1964 and 1965. He was single and I assumed he lived with his family somewhere in Brooklyn. I do not recall any employment background but he was still attending school nights while he worked [redacted] I do not know which college this was. [redacted] He did get into trouble with his supervisor [redacted] on a few occasions [redacted]. His work performance was good but every once in awhile something would upset him. He would get excited and irrational and [redacted] have to calm [redacted] down. I do not know whether he was having trouble at home or just what caused these problems that upset him. He did have a sister or a mother who as a lawyer and I had the feeling that this person might be part of his trouble. Whenever Richard ran into some problem apparently he would call this person. I know this because within a short time she would call [redacted] insisting that Richard be given his rights. She was giving [redacted] trouble and I understand she was also giving the union trouble concerning Richard. It got so I hated to answer the phone when I knew she was on the other end. It was impossible to reason with her. Eventually Richard resigned and we all drew a long sigh of relief.

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U.S. GOVERNMENT PRINTING OFFICE: 1970 [illegible]

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His resignation occurred a short time after he left our department. We let him go because of lack of work in this particular department and maybe he was not happy in his new assignment. Although I seemed to be able to get along with him, he had difficulty in getting along with anyone else. No one wanted to work with him. He was capable in his line of work and could have been a good employee if he would get over the idea that everyone was trying to put something over on him. He was always demanding his rights. I recall one incident when he claimed that he was being denied protective garments. All he had to do was ask. [redacted] to go and draw a pair of gloves then he complained about the color. There was no pleasing him. He claimed that he was being mocked by being furnished white gloves. That was the only color we had available. It was always some little thing such as that which caused him no amount of aggravation.

He seemed to be in good health and I believe his attendance was fairly good. There was never any question concerning his sobriety or moral conduct or his honesty. I am sure he did not use drugs or narcotics. His major problem was his inability to get along with others. This seemed to be a result of some family pressure upon him. If he would get away from them he might prove to be a good employee.

I do not know his organizational affiliations. He never said or did anything that would cause me to question his loyalty to our country. I would not want to rehire him without a very lengthy interview to see how he has been getting along since he left us. As of the time he left us, I do not believe I could recommend him for employment with the government where our security may be involved.

[redacted]

[redacted] Richard DeFina worked [redacted] as an electronic tester. He lasted about a year and this was sometime around 1965. The major thing I remember about Richard is his sister. She was an attorney and a 100 percent nut. She was a real "ding bat", threatened to sue the company and the union regarding Richard's rights. Actually she was not his sister. When she began to give us trouble at the company I made some discreet inquiries concerning her and got the impression that she was actually Richard's mother, that she had him out of wedlock. He used his grandmother's name as his mother. Information also came to my attention that led me to believe that she was disbarred. She had a tremendous influence over Richard and it was all bad. It all started with her when Richard was suspended after a run-in with his supervisor. The supervisor ordered Richard to sweep his station. This was a normal part of the job of the testers to keep their area clean. However, Richard

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raised a big fuss, claimed that he would not do janitorial work, that it was beneath his dignity, and he absolutely refused to follow the orders. He was suspended. This started a string of letters from the attorney, his sister or his mother, whatever she was.

[redacted] Richard [redacted] had [redacted] personnel problems. These occurred all too often. He has a bad temper and was constantly blowing his cork. He was a clean-cut fellow and he knew his job. In fact, when he was not causing trouble, he was really a good worker. There was nothing about him that every caused any questions concerning drinking or drugs or narcotics. He really seemed to be a decent sort and gave me no cause to question his moral conduct or his honesty. He was physically healthy but mentally unstable. He was constantly demanding his rights and was really a pain. We were all delighted when he left.

I do not know his organizational affiliations. I never had reason to question his loyalty to our country but I could never recommend a fellow as unstable as he was for any federal employment.

[redacted]

CLIFTON POLICE DEPARTMENT. Record information furnished by [redacted]

No record.

GARDEN STATE CREDIT BUREAU, 429 Getty Avenue. Record information furnished by [redacted]

No record.

PH:lgg:2/9/71

40

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TREASURY DEPARTMENT
BUREAU OF CUSTOMS

TRANSMITTAL AND ROUTING SLIP

SUBJECT OR FILE NO.

DATE: February 10, 1971

TO	DESTINATION	INITIALS	TO	DESTINATION	INITIALS
1	[redacted] Civil Service Commission		6		
2			7		
3			8		
4			9		
5			10		

FOR
- ACTION
- INFORMATION
- COORDINATION
- COMMENT
- FILE
- RETURN
- PER CONVERSATION
- SEE ME
- CIRCULATE
- SIGNATURE

REMARKS

Please cancel investigation of the following Sky Marshals:

[redacted]

DEFINA, Richard Joseph

SIGNATURE [redacted]

ATTACHMENT
☐ Forwarded for review and initialing

INITIAL

SUSPENSE DATE

CUSTOMS FORM 3107 NOV 67

958-924

U.S. GOVERNMENT PRINTING OFFICE [illegible]

A 102

Served upon U.S. Civil Service Personally on Dec 11, 1973

TO:

APPEALS,
New York Region,
26 Federal Plaza,
New York, N. Y. 10007

RICHARD J. DE FINA, APPELLANT

COMPLAINT AND DEMAND FOR HEARING AND REINSTATEMENT AS CUSTOMS SECURITY OFFICER; 2-RIGHT TO KNOW WHAT IS IN SECRET FILE COMPILED BY THE UNITED STATES CIVIL SERVICE COMMISSION, DEPARTMENT OF JUSTICE, BUREAU OF NARCOTICS AND DANGEROUS DRUGS AFTER SIX MONTHS OF EXTENSIVE INVESTIGATION AND REJECTION FOR APPOINTMENT AS RADIO OPERATOR GS-395-4; 3- DEMAND TO KNOW REASON FOR DOWNGRADING OF NOVEMBER 2, 1972 RATING OF OS-4-94 OCP ON NOVEMBER 29, 1973 (AFTER EXPIRATION DATE AND FILING OF COMPLAINT AND DEMAND FOR A HEARING ON NOVEMBER 8, 1973) TO GS 4 86.0 CP; 4.INVESTIGATION AS TO CAUSE OF PATTERN OF DISCRIMINATION BY BOTH WASHINGTON AS TO A GS7 RATING AND NEW YORK AS TO GS 4 RATING, SINCE 1952.

1. Appellant incorporates, by reference, the attached complaint, sent registered mail to the Office of Complaints, Washington, D.C. dated November 8, 1973 and mailed November 9, 1973, showing a pattern of discrimination, frustration, deceit, misrepresentation and forcing of a resignation by intimidation on February 9, 1971; illegally; while investigation was being demanded by appellant and his attorney another fraud was perpetrated by misrepresenting duties, misleading into believing appellant would utilize his career field; causing him to resign... to apply for the career field opening to no avail; holding out... Bureau of Narcotics

EXC

NLG:bg
75-1633
d-695

A 103

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

8-8-75

RICHARD J. DE FINA,	:	
Plaintiff,	:	
-v-	:	AMENDED ANSWER
RITCHEY WILLIAMS, et al.,	:	75 Civ. 2362(WK)
Defendants.	:	

Defendant RITCHEY WILLIAMS, individually and in his capacity as Chief of the Division of Reimbursable Investigations of the United States Civil Service Commission, by his attorney, Paul J. Curran, United States Attorney for the Southern District of New York, for his answer to the complaint:

1. Denies the averments set forth in paragraph 1 of the amended complaint except admits that jurisdiction is purportedly based upon the Freedom of Information Act, 5 U.S.C. §552.

2. Denies knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraph 2 of the amended complaint.

3. Admits the averments set forth in paragraph 3 of the amended complaint.

4. Denies knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraphs 4, 5 and 6 of the amended complaint.

5. Denies the averments set forth in paragraph 7 of the amended complaint except admits that defendant Ritchey Williams has been Chief of the Division of Reimbursable Investigations since November, 1967 and in that capacity has been in charge of conducting reimbursable full field investigations including those conducted with respect to plaintiff in 1971 and 1973.

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75-1633
a-69

6. Denies knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraphs 8 and 9 of the amended complaint.

7. Denies the averments set forth in paragraphs 10, 11, 12, 13, 15 and 16 of the amended complaint which relate to defendant Ritchey Williams or the United States Civil Service Commission except admits that on or about May 9, 1975 the United States Civil Service Commission released certain information to plaintiff, a portion of which is annexed to the amended complaint as Exhibits A1 through A5 and refers thereto for a correct description of its contents.

8. Denies knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraph 14 of the amended complaint.

9. Repeats the admissions, denials and statements that he lacks knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraphs 1 through 16 of the amended complaint as they are reiterated in paragraph 17 of the amended complaint.

10. Denies the averments set forth in paragraph 18 of the amended complaint except admits that on or about May 9, 1975, the United States Civil Service Commission released certain information to plaintiff, a portion of which is annexed to the amended complaint as Exhibits A1 through A5 and refers thereto for a correct description of its contents.

11. Denies knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraphs 19, 20, 21 and 22 of the amended complaint.

12. Denies the averments set forth in paragraphs 23, 26, 27 and 30 of the amended complaint.

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75-1633
d-695

13. Denies knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraphs 28 and 29 of the amended complaint.

AS AND FOR A FIRST
COMPLETE AFFIRMATIVE DEFENSE

14. The amended complaint fails to state a claim over which this Court has jurisdiction.

AS AND FOR A SECOND
COMPLETE AFFIRMATIVE DEFENSE

15. The amended complaint fails to state a claim upon which any relief can be granted.

AS AND FOR A THIRD
COMPLETE AND AFFIRMATIVE DEFENSE

16. Defendant RITCHEY WILLIAMS acted within the scope of his official capacity and is not a proper party to this action.

AS AND FOR A FOURTH
COMPLETE AFFIRMATIVE DEFENSE

17. Those portions of the records in question not released to plaintiff are exempt from disclosure pursuant to the Freedom of Information Act, 5 U.S.C. §552(b).

WHEREFORE, defendant RITCHEY WILLIAMS demands judgment dismissing this action in its entirety, together with the costs and disbursements of this action and such other further relief as is just.

Dated: New York, New York

August 6, 1975

PAUL J. CURRAN
United States Attorney for the
Southern District of New York
Attorney for Defendants.

By: _____
NATHANIEL L. GERBER
Assistant United States Attorney
Office and Post Office Address:
United States Courthouse
One St. Andrew's Plaza
New York, New York 10007
Telephone NO.: (212) 791-194

TO. MADELINE DE FINA
22-31 Union Turnpike
Flushing, New York 11364

A 106

JOSEPH F. ONORATO, ESQ.
1633 Broadway
New York, New York 10019

NLG:ow
M-588

A 107

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RICHARD J. DE FINA, Plaintiff, v. FEDERAL AVIATION ADMINISTRATION, et al. Defendants.	:	NOTICE OF MOTION 75 Civ. 1526 (WK)
RICHARD J. DE FINA, Plaintiff, v. VIRGINIA M. ARMSTRONG, et al. Defendants.	:	75 Civ. 1564 (WK)
RICHARD J. DE FINA, Plaintiff, v. CLARENCE M. KELLEY, et al. Defendants.	:	75 Civ. 2119 (WK)
RICHARD J. DE FINA, Plaintiff, v. RITCHEY WILLIAMS, et al. Defendants.	:	75 Civ. 2362 (WK)

NLG:ow
M-588

A 108

- - - - - - - - - - - - - - - - - - - -x

MADELINE DE FINA, :

Plaintiff, : 75 Civ. 2681 (WK)

- v - :

ROBERT J. DRUMMOND, et al. :

Defendants. :

- - - - - - - - - - - - - - - - - - - -x

S I R :

PLEASE TAKE NOTICE that upon the following annexed affidavits:

1. Affidavit of Bruce E. Jensen, Special Agent and Chief, Freedom of Information Unit, Drug Enforcement Administration, sworn to August 13, 1975 ("Jensen affidavit");

2. Affidavit of Virginia M. Armstrong, Regional Director, United States Civil Service Commission, New York Region, sworn to September 12, 1975 ("Armstrong affidavit");

3. Affidavit of Michael L. Hanigan, Special Agent, Federal Bureau of Investigation, sworn to June 10, 1975 ("Hanigan affidavit");

4. Affidavit of Robert J. Drummond, Director of the Bureau of Personnel Investigations, United States Civil Service Commission, sworn to September 30, 1975 ("Drummond affidavit");

5. Affidavit of Theodore Burtness, Chief, Manpower Division, Federal Aviation Administration, Eastern Region, sworn to August 4, 1975 ("Burtness affidavit"); and

6. Affidavit of John B. De Leo, attorney for the Administrator of Veterans Affairs, sworn to September 29, 1975 ("De Leo affidavit");

NLG:mb
M-558

and upon all prior proceedings, the federal defendants in the above-captioned actions will move this Court on October 24, 1975 at 2:00 o'clock in the afternoon in Room 1105, United States Courthouse, Foley Square, New York, New York 10007, for an order consolidating the above-captioned actions, and as consolidated for a further order dismissing the complaints with respect to the federal defendants named therein on the ground that they fail to state a claim over which this Court has jurisdiction or upon which any relief can be granted and on the further ground that the individual federal defendants named therein were acting in their official capacities and are not proper parties to these actions.

PLEASE TAKE FURTHER NOTICE that answering papers, if any, must be served on the undersigned at least six (6) days before the return date of this motion, or, if served personally, three (3) days before the return date of this motion.

Dated: New York, New York

October , 1975

Yours, etc.,

PAUL J. CURRAN
United States Attorney for the
Southern District of New York
Attorney for the Federal
Defendants

By: _____
NATHANIEL L. GERBER
Assistant United States Attorney
Office and Post Office Address:
United States Courthouse Annex
One St. Andrew's Plaza
New York, New York 10007
Tel.: (212) 791-1946

TO: Richard J. De Fina
220-31 Union Turnpike
Flushing, New York 11364

Madeline De Fina
220-31 Union Turnpike
Flushing, New York, 11364

Joseph F. Onorato
1633 Broadway
New York, New York 10019

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

RICHARD J. DEFINA,

Plaintiff,

-against-

VIRGINIA M. ARMSTRONG, et al.,

Defendant.

----------x

AFFIDAVIT
75 Civ. 1564 (WK)

)
: ss.:
)

BRUCE E. JENSEN, being duly sworn, deposes and says:

1. I am Special Agent and Chief, Freedom of Information Unit, Drug Enforcement Administration.

2. By letter dated February 12, 1973, Mr. DeFina was notified by then existing Bureau of Narcotics and Dangerous Drugs, "BNDD", predecessor of the DEA, that he had been nominated on a certification of eligibles for the position of Radio Operator with the BNDD. On March 19, 1973, Mr. DeFina completed and certified a preliminary application form entitled: "Security Investigations Data for Sensitive Positions", Standard Form 86.

3. A preliminary background investigation of Mr. DeFina was conducted by BNDD Agents by contacting various employers and social references listed in the aforementioned application. In furtherance of its investigation of Mr. DeFina, in July, 1973, DEA, which succeeded BNDD as a result of Reorganization Plan No. 2, requested the Civil Service Commission to conduct a Full Field Investigation of Mr. DeFina. On the basis of the then BNDD (DEA) preliminary investigation and the

Civil Service Commission Full Field Investigation, it was determined that Mr. DeFina was not acceptable for employment with the DEA. By letter dated December 10, 1973, DEA advised Mr. DeFina of its determination and of the reasons therefor. Said letter is appended hereto as Exhibit A.

4. By letter dated February 19, 1975, Ms. Madeline DeFina requested of the New York Regional Office of DEA copies of certain records pursuant to the Freedom of Information Act. By letter dated February 21, 1975, Ms. DeFina was notified by the New York Regional Office of DEA that she was required to direct her Freedom of Information Act request to DEA Headquarters. By letter dated January 22, 1975 (sic), Ms. DeFina directed her request to DEA Headquarters. This request was received at DEA Headquarters on February 27, 1975. By letter dated February 28, 1975, Ms. DeFina was notified of the receipt of her request.

5. By letter dated March 4, 1975, DEA released to Ms. DeFina copies of its records pertaining to Mr. DeFina including the following:

A. A Personnel Qualification Statement filed by Mr. DeFina with the United States Civil Service Commission on September 6, 1972.

B. Correspondence between the BNDD and Mr. DeFina or Ms. DeFina.

C. The aforementioned form entitled: "Security Investigations Data for Sensitive Positions" submitted by Mr. DeFina on March 19, 1973.

D. Recommendations submitted by the acquaintenance and former employers of Mr. DeFina in support of his application for employment.

E. Correspondence between the BNDD and Congressman Benjamin S. Rosenthal regarding Mr. DeFina's application for employment.

6. Upon information and belief, the United States Attorney's Office for the Southern District of New York thereafter released to Mr. DeFina a memorandum request dated July 19, 1973 by the DEA for a full-field investigation of job applicants including Mr. DeFina to be conducted by the United States Civil Service Commission.

7. The only material not released to Mr. DeFina was various internal memoranda or notes making recommendations as to Mr. DeFina's suitability for employment, including file notations of telephone conversations between BNDD personnel and Mr. DeFina or Ms. DeFina as well as a Report of Investigation dated March 29, 1973 evaluating the results of the BNDD background investigation of Mr. DeFina regarding his application for employment. In addition, the names of BNDD employees were deleted from the correspondence with Congressman Rosenthal.

8. The decision of DEA with respect to Mr. DeFina's Freedom of Information Act request was upheld by the Attorney General Edward H. Levi on March 30, 1975. Mr. Levi's letter of March 30, 1975 notifying Mr. DeFina of his decision and setting forth reasons in support thereof is appended hereto as Exhibit B.

9. Upon information and belief, no part of Mr. DeFina's pre-employment file has ever been released outside of the BNDD or the DEA except in conjunction with the request to the Civil Service Commission for a Full Field Investigation of Mr. DeFina or the instant Freedom of Information Act request.

10. It is my opinion, based on my sixteen (16) years experience as a Special Agent, that to disclose, or make public, the identity of any of our personnel who were involved in the DeFina matter would, not only subject them to harassment and vexatious law suits, but would also jeopardize their ability to function in undercover or other capacities within the Drug Enforcement Administration. Special Agents and Supervisory Special Agents who are called upon to conduct background investigations and make recommendations regarding employment suitability are also subject to being assigned very sensitive and dangerous undercover and other enforcement investigations. Moreover, the investigative inquires, the results of which were evaluated in the Report of Investigation withheld by the DEA, were made under implicit understanding that the response to such inquires would be withheld in confidence. Absent total deletion of the reports' substantive contents, the identity of the persons who responded to the DEA inquires would inevitably be recognized on the basis of the information contained therein.

11. It is the judgement of the DEA, with the approval of the Attorney General, that in light of its highly sensitive law enforcement functions, both its investigatory procedures as well as confidential information such as that furnished during the background investigation of Mr. DeFina, should be protected from compeled disclosure pursuant to exemptions (b)(2); (b)(7)(C), (D), and (E), of the Freedom of Information Act, notwithstanding the contrary discretionary practices of other governmental agencies involved in less sensitive work.

Bruce E. Jensen

BRUCE E. JENSEN
Chief
Freedom of Information Unit
Drug Enforcement Administration
Department of Justice

Subscribed and sworn to before me
this 13th day of August, 1975.

Thomas C. Wilson

Notary Public Notary Public, District of Columbia
My Commission expires: My Commission Expires April 14, 1979

A 114

December 10, 1973

Mr. Richard J. DeFina
220-31 Union Turnpike
Flushing, New York 11364

Dear Mr. DeFina:

Reference is made to a telephone discussion this date, with Ms. Madeline E. DeFina who indicated that she was calling on your behalf as your attorney.

Ms. DeFina requested written notification and reasons concerning a non-selection decision for employment in the position of Radio Operator GS-4.

This will confirm our notification by telephone on October 31, 1973 of a non-selection determination.

After careful consideration of your employment history, in the judgment of selecting officials you have not exhibited perseverence, steadiness of purpose and the habit of remaining in an employment situation for a reasonable length of time which would be indicative of the extent of stability we look for in job applicants.

Your interest in employment with the Drug Enforcement Administration is appreciated and I regret any inconvenience you may have experienced in making application.

Very truly yours,

Joseph T. La Rocco
Personnel Officer
New York Regional Office

cc: Ms. Madeline E. DeFina, Attorney at Law

JTL:hs

Exhibit "A"

BEST COPY AVAILABLE

A 115
APR 30 1975

Ms. Madelino E. DeFina
Attorney at Law
220-31 Union Turnpike
Flushing, New York 11364

Dear Ms. DeFina:

This is in further response to the pending administrative appeal under the Freedom of Information Act of your client, Richard J. DeFina, resulting from the partial denial of his request to the Drug Enforcement Administration for access to records pertaining to himself.

After careful consideration of this appeal, I have decided to affirm the action of D.E.A. The preliminary background investigation that was conducted on your client at the time of his application for a position with the Bureau of Narcotics and Dangerous Drugs and other internal memoranda relating to the personnel selection process are exempt from mandatory release under the Act pursuant to several of the statutory exemptions. Sensitive internal procedures regarding personnel selection and the manner in which these investigations are conducted are covered by 5 U.S.C. 552(b)(2) [internal rules and practices of an agency]. Evaluations and recommendations of personnel involved in the hiring process are intra-agency memoranda to which 5 U.S.C. 552(b)(5) applies. Such investigations involve obtaining information from other individuals under circumstances of at least implied confidentiality which make applicable 5 U.S.C. 552(b)(4). Finally, because such background investigations are conducted for law enforcement purposes, 5 U.S.C. 552(b)(7)(C) and (D) are applicable to protect the identities of persons who furnish the information to us in confidence and to keep them free from unwarranted invasions of their personal privacy.

cc: Drug Enforcement Administration

Exhibit "B"

I fully understand and sympathize with the desire of an individual, such as your client, to obtain access to the information concerning him which was furnished to the Department during a preliminary background investigation. On the other hand, the necessity for protecting the integrity of this investigative process leads me to conclude that it would be inappropriate to make a discretionary release of the report of investigation, the information furnished to us in the course of the investigation, or the internal memoranda pertaining to the decision not to offer a position to Mr. DeFina.

My action on this appeal is also intended to constitute a final denial of that portion of your request for records pertaining to Mr. DeFina addressed to the United States Civil Service Commission which was referred by that Agency to this Department for decision.

In the course of your several communications to this Department you have raised several other matters that I feel should be addressed by me. The excisions made to the copy of the letter to Congressman Rosenthal concealed only the name and position of the individual who signed the letter and the internal carbon copy distribution system of that particular office of the Bureau of Narcotics and Dangerous Drugs. These minor excisions were made pursuant to 5 U.S.C. 552(b)(2) and (b)(6) which protect from mandatory release, respectively, internal agency practices and the privacy of agency personnel vis-a-vis third parties. I assure you, however, that copies of that letter were not sent to any other agencies of the Government.

You have also expressed concern that Mr. DeFina's name is in our files pertaining to law breakers. The only investigation which has ever been conducted on Mr. DeFina by this Department is the one I have already discussed in this letter. It is maintained by the Drug Enforcement Administration, along with other applicant files, as a personnel file; it is not part of or even co-located with D.E.A.'s operational files. He has never been the subject of any criminal investigation by this Department.

Mr. DeFina was not selected for a position with the B.N.D.D. on the basis of a comparison of his qualifications with other applicants. There was and is no conspiracy against him within or involving this Department, either to

A 116a

keep him from obtaining employment with the Government or for any other purpose. As to the nature of the relationship between Mr. DeFina and yourself, the former interest of the Department was extremely limited. When an individual is being considered for appointment to a sensitive position, any discrepancy between the information he furnishes concerning himself and that which is obtained from other sources must be resolved. In the course of the preliminary background investigation, several other persons referred to you as his mother, rather than as his sister. If the explanation for this discrepancy had been, for example, that you were his natural mother, but that he had been adopted by your parents, that almost certainly would have been the end of the matter.

Lastly, you have alleged that a particular document which you have described is being withheld from you without justification. No such document has been located either in the file pertaining to Mr. DeFina's employment application or elsewhere. Accordingly, the action of D.E.A. in this regard did not constitute a denial of access, because there can be a denial only where there is a record.

Although I have not been able to act favorably on your client's appeal, I hope that the information I have furnished to you will be of some value.

Pursuant to 5 U.S.C. 552(a)(4)(B), judicial review of my decision is available to your client in the District Court of the United States in the judicial district in which he resides, or in which he has his principal place of business, or in the Southern District of New York (where the records he seeks are located), or in the District of Columbia.

Sincerely,

Edward H. Levi
Attorney General

75-1170

A 117

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- -x

RICHARD J. DE FINA, :

Plaintiff, : AFFIDAVIT

: 75 Civ. 1564 (WK)

- v - :

VIRGINIA M. ARMSTRONG, et. al., :

Defendants. :

- -x

VIRGINIA M. ARMSTRONG, being duly sworn, deposes and says:

1. I am the Regional Director of the Civil Service Commission, New York Region ("CSC N-Y"). In that capacity I am responsible for directing the Regional Office and subordinate Area Offices in carrying out CSC programs and activities in accordance with established standards, policies, and procedures in the States of New York, New Jersey, the Commonwealth of Puerto Rico, and the Territory of the Virgin Islands.

2. When an agency has a vacancy which it wishes to fill in the competitive Civil Service, it submits a request for a list of eligibles to the CSC. The resulting list of eligibles is called a certificate. The agency appointing officer then has the option of selecting any one of the top three available individuals whose names appear on the certificate, provided he does not pass over an eligible with veterans preference to select a non-preference eligible. Eligibility is determined on the basis of points scored in a competitive Civil Service examination. Additional points are added to the score of an eligible entitled to veteran's preference according to Sec. 3309 CSC Regulations and Sec. 3 Veterans' Preference Act of 1944.

Where an agency appointing officer non-selects an eligible with veterans preference, he must submit information or evidence which either clearly shows that the eligible is disqualified for some or all of the positions filled from the register, including the particular job to be filled or creates a logical presumption of disqualification. Such an objection must be reviewed and sustained by the CSC. An objection will be sustained, even though there is insufficient basis for general disqualification of the applicant, provided the information or evidence supplied by the agency reasonably supports its conclusion that the applicant is not fitted for the particular vacancy.

3. On June 14, 1974, CSC-NY received from the Federal Aviation Administration (the FAA) a request for a certificate of eligibles to fill a position of Electronic Technician. The FAA requested that a specific individual's name be included on the certificate if he was qualified and if his rating was high enough. The individual's application had not been processed at the time of the request, thus the request was held pending. On June 20, 1974, CSC-NY received another request from the FAA for a certificate for another position of Electronic Technician. A certificate with the names of Mr. De Fina and two other veteran eligibles was issued to the FAA on June 24, 1974. The FAA appointed one of the veterans listed on the certificate, non-selected Mr. De Fina, and one veteran declined. No objection was needed since one veteran out of the top three candidates was selected. The certificate was returned to CSC-NY July 24, 1974 for audit and approval. The selection was approved on September 10, 1974.

4. The candidate requested by the FAA on June 14th was rated eligible and his name was added to the register on June 27, 1974. A certificate was issued to the FAA on July 3, 1974 as a supplement to the one issued June 24, 1974. FAA selected a non-veteran from this list of eligibles. This certificate was returned to CSC-NY October 21, 1974. A supplemental certificate is considered a continuation of the original certificate. Therefore, this certificate had to be reviewed together with the original certificate. CSC-NY found that FAA had appointed a non-veteran and non-selected a veteran, namely, Mr. De Fina. FAA was contacted on November 7, 1974 and told that in view of its selection of a non-veteran, an objection or reason for passing over a veteran had to be submitted to the CSC with respect to Mr. De Fina.

5. On February 3, 1975, the CSC-NY reviewed and sustained the reasons submitted by FAA for not selecting Mr. De Fina. Mr. De Fina's name was therefore removed from the certificate issued to FAA on June 24, 1974. The reasons submitted by FAA were based on information furnished by former employers of Mr. De Fina in response to employment inquiries sent to them by FAA. This employment information was received by FAA under an explicit promise of confidentiality.

6. By letter dated February 19, 1975, CSC-NY received a request for information regarding Mr. Richard De Fina pursuant to the Freedom of Information Act from Ms. Madeline De Fina. This letter is appended hereto as Exhibit A.

7. In response to this request and after Ms. De Fina had been designated by Mr. De Fina as his representative to receive such information, CSC-NY released copies of Mr. De Fina's register cards for the Sky Marshall, Junior Federal Assistant and Technical Assistant announcements under which he had eligibility, as well as each certificate on which Mr. De Fina's name appeared which had been issued to a Federal agency. Other names included on these certificates were deleted. In addition, the objection filed by the FAA with the CSC-NY and sustained by the CSC's New York Area Office was released. The names of the companies who returned employment inquiries regarding Mr. De Fina and which were the basis for FAA's non-selection were deleted as were the names of two employees who had had personal contact with Mr. De Fina.

8. The basis for the deletion of names other than Mr. De Fina's on the certificate was that disclosure of these names would constitute an unwarranted invasion of their privacy. CSC-NY released the objection filed by the FAA in order to apprise Mr. De Fina of the reasons for the removal of his name from the certificate. The identities of the parties mentioned therein, however, were deleted because their disclosure would similarly constitute an unwarranted invasion of their privacy and would violate an explicit promise of confidentiality given when Mr. De Fina's previous employers were contacted. Finally, the identities of two federal employees who had spoken to Mr. De Fina in connection with his application to the FAA and whose evaluations of such contacts were included were similarly deleted in order to protect their privacy. Disclosure of the names of federal

employees in this context would subject them to the threat of harrassment and unfounded and vexatious lawsuits and thereby interfere with the investigatory and deliberative processes of the federal agency involved.

9. By letter dated March 24, 1975, Ms. De Fina appealed the decision of the Regional Office regarding her Freedom of Information Act request. Said letter was forwarded to the Assistant Executive Director for Freedom of Information, U.S. Civil Service Commission, Washington, D.C. 20415.

Virginia M. Armstrong

VIRGINIA M. ARMSTRONG

Sworn to before me this

12th day of September, 1975.

John S. Crozier

JOHN S. CROZIER
NOTARY PUBLIC, State of New York
No. 60-0314015
Qualified in Westchester County
Commission Expires March 30, 1977

ATTORNEY AT LAW
220-31 UNION TURNPIKE
FLUSHING, NEW YORK 11364

GR 9-1555

A 122

February 19, 1975

U.S. Civil Service Commission,
Mr. John J. Mc Quoid,
Regional Director,
New York Area Office,
Federal Bldg.,
26 Federal Plaza, N.Y.N.Y. 10007

Re: RICHARD J. DE FINA

Dear Sir:

On February 11, 1975, the most recent letter of rejection for civil service employment was received by mail with the statement that the reasons for rejections were contained in the file sent to your office. The letter was signed by T.N. Burtness, Chief, Manpower Division. Going back years it appears that all that Civil Service wants by sending him offers of employment is to keep his file up to date as to finger printing, his friends used as character references, and tabs on his physical condition. All prior attempts to find out what is contained in this file that has blacklisted him were failures.

I now demand his file under the Freedom of Information Act, Section 552 of Title V U.S.Code and offer to pay the reasonable expense or what it costs to obtain copies of what is in his file, within 10 days or I will go into the Federal District Court and seek to obtain the information the law before quoted gives to my client. The files I request must contain the following:

1. All information on procedure and policy as pertains to fingerprinting applicants, getting them to take a physicial examination, the length of time allowed for investigating (the Bureau of Narcotics & Dangerous Drugs took about 8½ months going around investigating) and other allowable contacts that an agency used to investigate.

2. Any letters from any Congressman, or public officer, former empoyers or fellow employees, character references, or statements made and put into the file pertaining to Mr. Richard J. De Fina.

3. The reason that the Sky Marshal position was brought to an end right before Mr. DeFina finished the course and the matter in which it was brought to end by a forced resignation based on "eyesight" when those whose eyesight was worse than his were allowed to continue. Naturally my client merely judges by glasses and renders no professional opinion.

Exhibit "A"

4. All the data that led to his being downgraded on your GS 4 list while he had a GS 7 rating, after complaining to your office about the Sky Marshal forced resignation.

A 123

5. All the data given to you on Mr. De Fina, by the Gerontology Research Center, Baltimore City Hospital even though they never gave him an interview; all the statements made by the Department of Justice, Bureau of Narcotics & Dangerous Drugs now called, Drug Emforcement Administration, all the data, communications and correspondence by the Dept. of Commerce, U.S. Merchant Marine Academy at Kings Point, and any other time that you sent Mr. DeFina's name to any agency whatsoever.

Unless you comply an action will be brought in the Federal District Court as your blacklisting has kept him unemployed and under the Law he now had the right to the information making him unemployable after serving his country honorably for years and on the last interview he was told he was more than qualified for the position and this was admitted to me by Mr. T.M. Burtness, Chief of Manpower with the statement that he would never hire Mr. DeFina as he would have an advantage over the others employed at the same time and after reading what the interviewer stated as to Mr. DeFina's qualifications it was unfair to the others to hire him! This is bias, bigotry and hatred with vengeance.

Very truly yours,

Matilda Raines

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

RICHARD J. DEFINA,

Plaintiff,

v.

CLARENCE M. KELLEY, etc., et al.,

Defendants

Civil Action No. 75C2119

AFFIDAVIT

I, Michael L. Hanigan, the affiant, being duly sworn, depose as follows:

1. Affiant has read and is familiar with the allegations contained in plaintiff's complaint.

2. Affiant is a Special Agent of the Federal Bureau of Investigation and is responsible for the supervision and processing of Freedom of Information Act requests. Affiant's conduct with respect to plaintiff occurred entirely in the course of affiant's official duties.

3. Affiant received on April 2, 1975, a referral letter dated April 1, 1975, from the United States Civil Service Commission (see Exhibit A attached hereto), which initiated plaintiff's Freedom of Information Act request with the Federal Bureau of Investigation. Affiant processed this request and proposed a response to the plaintiff for mailing on April 30, 1975. (see Exhibit B attached hereto). In this response, affiant furnished to the plaintiff a memorandum with certain portions deleted. (see Exhibit C attached hereto).

4. Affiant states the above-mentioned deletions were limited to two categories of information: (1) Names, addresses, and/or occupations of individuals other than the plaintiff, and (2) substantive information concerning an individual other than the plaintiff.

5. With respect to the aforementioned first category of information, affiant states that withholding the identities of certain parties contained in plaintiff's file is necessary to prevent an unwarranted invasion of the privacy of those individuals. The effectiveness of the Federal Bureau of Investigation's responsibilities to gather information could be significantly compromised if citizens became reluctant to candidly furnish information in anticipation that their identities might one day be revealed.

6. With respect to the aforementioned second category of information, affiant states that information concerning an individual other than the plaintiff was withheld to preclude an unwarranted invasion of that individual's right to privacy. This exclusion pertained to information which an individual could reasonably assert an option to withhold from the public at large because of its intimacy or possible adverse effects upon himself or his family. Furnishing information of this nature would place the Federal Bureau of Investigation in the untenable position of providing third party information to anyone requesting it, and thereby substantially inhibit the free flow of information which is so essential to the effective discharge of the Federal Bureau of Investigation's mandated responsibilities.

7. Affiant denies any conspiracy to withhold information from the plaintiff as alleged in his complaint. Affiant is aware of the fact that Richard J. DeFina, the plaintiff, and Madeline E. DeFina, plaintiff's attorney, telephonically contacted the Freedom of Information Act Unit of the Federal Bureau of Investigation between April 2 and April 30, 1975. They were both advised that plaintiff's referred Freedom of Information Act request was being processed as expeditiously as possible, and that the delay was due solely to the voluminous number of requests being processed.

Michael L. Hanigan

Michael L. Hanigan
Special Agent
Federal Bureau o Investigation

Subscribed and Sworn to before me this 10th day of June, 1975.

Ann Lee Balassa

Notary Public

My commission expires 4-30-78.

Enclosures (3)

A 127

UNITED STATES CIVIL SERVICE COMMISSION

IN REPLY PLEASE REFER

BUREAU OF PERSONNEL INVESTIGATIONS

WASHINGTON, D.C. 20415

1 APR 1975

YOUR REFERENCE

REQUEST FOR INFORMATION UNDER
THE FREEDOM OF INFORMATION ACT

Honorable Clarence M. Kelley
Director
Federal Bureau of Investigation
Washington, D.C. 20535

Attn: Freedom of Information Act Unit

Dear Mr. Kelley:

Under attached memorandum of March 13, 1975, the Director of the New York Region, U.S. Civil Service Commission advised the Bureau of Personnel Investigations, U.S. Civil Service Commission that Ms. Madeline E. DeFina requested information contained in the investigative file pertaining to her client, Richard J. DeFina, pursuant to the 1974 Amendments to the Freedom of Information Act, Public Law 93-502.

The U.S. Civil Service Commission's investigative file on Richard J. DeFina (DOB: 1-12-36; POB: Brooklyn, New York) contains the following FBI document (copy attached):

FBI Memorandum dated February 24, 1969, "Madeline Edith DeFina, Richard DeFina; - Victims"

Names deleted, 10/6/75 WLG.

Since the above document is of primary concern to your agency, we are referring Ms. DeFina's request to you for determination concerning its disclosure pursuant to Public Law 93-502.

Ms. DeFina has been advised that the investigative file on Richard J. DeFina contains reference to data that originated in the FBI and that the FBI will be contacting her directly concerning this matter.

Sincerely yours,

Robert J. Drummond, Jr.
Director

Exhibit A to Hanigan Affidavit

MADELINE F. DEFINA

A-128

April 30, 1975
REGISTERED RETURN RECEIPT

Ms. Madelina F. DeFina
Attorney At Law
220-31 Union Turnpike
Flushing, New York 11364

Dear Ms. DeFina:

This is to acknowledge receipt of a Freedom of Information request referral from Robert J. Drummond, Jr., Director of the United States Civil Service Commission, concerning your client, Richard J. DeFina.

Mr. Drummond's letter enclosed a memorandum originating in the FBI concerning an extortion investigation regarding your client. This document has been reviewed and, with appropriate deletions, is enclosed. The identities of certain parties and information not relevant to your client's request have been deleted under Title 5, United States Code, Section 552 (b)(7)(C).

You may appeal my decision in this matter within thirty days by writing to the Attorney General, Attention: Freedom of Information Appeals Unit, Washington, D. C. 20530. The envelope and letter should be marked "Freedom of Information Appeal." Additionally, judicial review is thereafter available either in the district in which you reside or have your principal place of business or in the District of Columbia, the location of the records to which you seek access.

Sincerely yours,

Clarence M. Kelley
Director

Enclosure

Exhibit B to Hanigan Affidavit

BEST COPY AVAILABLE

A 129

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to File No.

February 24, 1960

[redacted]
RICHARD DE FINA;
[redacted]
[redacted] - VICTIMS

On February 17, 1960, [redacted] of the United States Court of Military Appeals, (CMA) advised that on that date Richard DeFina, son of Madeline DeFina had telephonically contacted [redacted] of CMA, and threatened her with bodily harm. [redacted] said the telephone call apparently had been made from Brooklyn, New York.

Exhibit C to Hanigan Affidavit

[redacted], RICHARD DE FINA;
[redacted] - VICTIMS

[redacted] said on the morning of February 17, 1960, [redacted] called her regarding the status of the proceedings against her. She said she attempted to find someone to talk to [redacted] but while doing so, [redacted] hung up. Shortly thereafter, Richard DeFina called back and said "What are you doing to my mother? If this continues, I will come down and put a bullet through your head." [redacted] advised that Richard DeFina used extremely profane language and hung up after making this threat.

[redacted] advised that on the morning of February 17, 1960, Richard DeFina had called her and when she attempted to tell him that he should try to calm his mother, he told her that his mother was right but he knew that she would be disbarred. He used extremely abusive and profane language and ended the conversation with the threat that he would come down and kill her and [redacted] and then go over to CAA and take care of them.

[redacted] advised that [redacted] at the request of [redacted] had reviewed the proceedings at CAA on February 15, 1960, to determine whether she could obtain an extension of time on the show cause order. This was [redacted] only connection with this matter, and he said he had never been threatened personally.

On February 17, 1960, [redacted] Assistant United States Attorney, District of Columbia, requested that [redacted] and Richard DeFina be interviewed before making a final decision concerning prosecution.

On February 18, 1960, Special Agents of the New York Office interviewed [redacted] and Richard DeFina both of whom admitted making the telephone calls in question. Richard DeFina, however, denied making any threats or the use of abusive language. He said he had no intention of going to Washington, D. C., to shoot or otherwise harm anyone. Both [redacted] and Richard DeFina appeared to be extremely emotional during the interview and [redacted] related many incidents to show how she had been persecuted in the past. In this regard she advised that several years ago she instituted a suit against [redacted] and [redacted] for abusive treatment by army personnel. [redacted] also advised that she is divorced but

[redacted], RICHARD DE FINA;
[redacted],
[redacted] - VICTIMS

seeking an annulment. She said [redacted] who investigated her annulment petition, told her to consult a psychiatrist. She also said she had filed a complaint against [redacted] with the Pope and had filed a slander suit against her parish priest because he told her she was "insane".

On February 18, 1960, Assistant United States Attorney [redacted], Eastern District of New York, declined prosecution stating that if threats were made, they could not be proven.

On February 19, 1960, Assistant United States Attorney [redacted] advised that while there is a technical violation of the extortion statutes the fact that Richard DeFina was emotionally upset over the disbarment of his mother tends to negate the seriousness of the threat and considering all the circumstances, he said prosecution was not warranted.

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

A 132

RICHARD J. DEFINA Plaintiff v. VIRGINIA M. ARMSTRONG, et al. Defendants	)	75 Civ. 1864 (WK)
MADELINE DEFINA Plaintiff v. ROBERT J. DRUMMOND, et al, Defendants	)	75 Civ. 2681 (WK)

A F F I D A V I T

Robert J. Drummond, being duly sworn, deposes and says:

1. I am the Director of the Bureau of Personnel Investigations of the United States Civil Service Commission ("CSC"). In that capacity I am responsible for conducting full field investigations at the request of an agency or department of the Federal Government and with respect to persons seeking employment in the Federal civil service. The authority of the CSC to conduct full field investigations is derived from Executive Order 10450 (April 27, 1953), as amended.

2. On January 13, 1971, the Bureau of Customs, United States Department of Treasury, requested that the CSC conduct a full field investigation on Mr. Richard Joseph DeFina in connection with his then pending application for employment as a Customs Security Officer (Sky Marshal) with the Bureau of Customs. Similarly, on July 16, 1973, the Drug Enforcement Administration, United States Department of Justice, requested of the CSC that it conduct a full field investigation of Mr. DeFina in connection with his then pending application for employment as a Radio Operator with the Drug Enforcement Administration.

3. A full field investigation was conducted by the CSC in response to these requests. CSC investigators personally contacted references identified by Mr. DeFina, including personal acquaintances, former employers and co-workers, and persons employed at various education institutions attended by Mr. DeFina.

The results of each of these contacts were synopsised and included in Mr. DeFina's investigative file. In addition, information was gathered from various credit bureaus and law enforcement and investigative agencies, such as local police departments, the Federal Bureau of Investigation, the then Bureau of Narcotics and Dangerous Drugs (now the Drug Enforcement Administration), and the then existing House Committee on Internal Security as well as the Department of Defense. Any information gathered from these sources was similarly included in Mr. DeFina's file.

4. Upon completion of each investigation a report was prepared by the CSC and forwarded to the agency which had requested the investigation. This was the sole disclosure of the contents and/or results of the aforementioned investigations aside from what has been released to Mr. DeFina pursuant to his requests under the Freedom of Information Act.

5. By letter dated February 19, 1975, Ms. Madeline DeFina, representing Mr. Richard J. DeFina, requested of the New York Regional Office of the CSC that it release pursuant to the Freedom of Information Act certain information pertaining to Mr. DeFina. The results of that request are described in the accompanying Affidavit of Virginia M. Armstrong, New York Regional Director of the CSC.

6. By letter dated March 24, 1975, Ms. DeFina appealed the decision of the New York Regional Office relating to her Freedom of Information Act request. This letter was forwarded to the Assistant Executive Director for Freedom of Information, United States CSC, Washington, D.C., and in turn was referred to the Bureau of Personnel Investigations because it maintained a file on Mr. DeFina.

7. On April 1, 1975, I wrote Ms. DeFina advising her that the CSC had decided to release a copy of Mr. DeFina's investigative file with the exception of any material contained therein that is exempt from disclosure under the Freedom of Information Act as well as two reports prepared by the Federal Bureau of Investigation and then Bureau of Narcotics and Dangerous Drugs of the Department of Justice. As to these two reports, Ms. DeFina's request was referred to the agency from which the reports originated.

8. By letter dated May 9, 1975, I forwarded to Ms. DeFina a edited copy of Mr. DeFina's investigative file including the following:

Request to conduct full field investigation dated 7-10-73

Report of National Agency Check dated 10-11-73

Four CSC reports of investigation (1973)

Request to conduct full field investigation dated 1-13-71

Request to cancel full field investigation dated 2-10-71

Report of National Agency Check dated 2-22-71

Six CSC reports of investigation (1971)

The only deletions made in this copy were of the names or other identifying characteristics of the individuals who were interviewed and the names of CSC investigators who conducted such interviews as well as certain internal evaluative and transmittal memoranda written by CSC investigators during the course of their investigation and which were not included as part of the final report submitted to the requesting agency.

9. The basis for these deletions is that disclosure of the identities of the persons interviewed would constitute an unwarranted invasion of their privacy in violation of an implicit promise of confidentiality made at the time the interviews were conducted. It is the judgment of the CSC that disclosure of such material would inhibit candid discussions and/or evaluations of perspective civil service employees by acquaintances, former employers, etc., and thereby impose a significant burden upon the above described investigatory function of the CSC. Disclosure of the names of CSC investigators would similarly burden its investigator function and would also inhibit the deliberative process within the agency by subjecting the investigators to the threat of potential harrassment or unfounded law suits by the subject of their investigation. Finally, although certain internal evaluative memoranda were not released because they constituted intra-agency communications, any factual material contained therein was also included in the investigative reports which were in fact released to Mr. DeFina.

10. By letter dated August 8, 1975, Madaline DeFina requested of various Federal agencies, including the Civil Service Commission, that they release pursuant to the Freedom of Information Act any information in their files which related to her. This letter is attached as Exhibit A.

11. On August 22, 1975, I responded to Ms. DeFina's request and released edited copies of the following documents:

1. Form IN 34, dated 1-22-71
2. Form IN 35, dated 1-22-71
3. Form IN 17-A, dated 1-19-71

These documents, which are contained in the investigative records of Richard J. DeFina described above, constitute all the information relating to Madaline DeFina in the files of the Civil Service Commission. The initials of the CSC personnel who prepared these documents were deleted for the reasons set forth in Paragraph 9 above.

12. The documents identified in Paragraph 11 above were not released earlier in response to the Freedom of Information Act request made in behalf of Richard J. DeFina, although contained in the latter's records, for the reason that their substantive content pertain to Madaline DeFina and not to Richard J. DeFina and, therefore, were not within the scope of the request in behalf of Mr. DeFina.

13. Pursuant to section 294.108 of title 5, Code of Federal Regulations, my decision regarding Madaline DeFina's Freedom of Information Act request of August 8, 1975, may be appealed to the Commission's Assistant Executive Director for Freedom of Information. Upon information and belief, no such appeal has been received as of the date of this affidavit.

Robert J. Drummond
Director, Bureau of Personnel Investigations
United States Civil Service Commission

Sworn to and subscribed before me this 30th day of September, 1975, in the City of Washington, District of Columbia.

Notary Public

My Commission expires: July 31, 1980.

MADELINE K. DiFIA
ATTORNEY AT LAW
[illegible]
[illegible]

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AUG 18 1975

August 8, 1975

DEMAND FOR FILES UNDER U.S.C. Title V Section 552
FREEDOM OF INFORMATION ACT

To:

National Security Agency,
Washington, D. C. FOIA Unit.

Postmaster General,
U.S. Postal Service,
Washington, D. C.

Department of Defense FOIA Unit,
Washington, D. C.

Defense Appellate Division,
Department of the Army Office of
The Judge Advocate General
Washington, D. C.

U.S. Civil Service Commission,
Washington, D. C.
FOIA Unit

Demand is hereby made upon you all, for files that have been freely exchanged among you, one file in particular JAGJ 1958/6470, including End 0, of the U.S. Court of Military Appeals, The Central Intelligence Agency, the Federal Bureau of Investigation the U. S. Civil Service Comission and to the U.S. Postal Service to have my mail intercepted, read, withheld from me and re-delivered to me, once in awhile, by an authorized person, JALAL NOUI, to keep me informed during 1973, 1974 and 1975, that the C.I.A. was "still after" me. Prior to Mr. Noui's appearance in the picture my mail has been withheld from me beginning about 1959 to the present time.

I want the files giving authorization for the illegal acts committed against me. Unless this demand is complied with within 10 days, I will pursue my rights under the U.S.C.Title V Section 552 in the Federal Court.

MADELINE DI FIRA

WAF 64
2

Exhibit "A"

NLG:ew

A 137

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RICHARD J. DE FINA,

Plaintiff,

-v-

DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION, et al.,

Defendants.

AFFIDAVIT

75 Civ. 1526 (WK)

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

THEODORE BURTNESS, being duly sworn, deposes and says:

1. I am employed by the FEDERAL AVIATION ADMINISTRATION in the capacity of Chief of the Manpower Division of the Eastern Region.

2. I have the general responsibility for personnel services in the Eastern Region, including hiring.

3. Positions in the Federal Aviation Administration, with few exceptions, are in the competitive civil service and as such are filled in accordance with rules and regulations promulgated by the United States Civil Service Commission, in accordance with 5 U.S.C. SS 3301, et. seq.

4. In order to fill a position as Electronic Technician (pre-developmental), GS-856-4 in the Eastern Region, personnel specialists under my supervision requested

a certificate of eligibles (a list of eligible candidates ranked by the Civil Service Commission) from the New York City Area Office of the Civil Service Commission on June 19, 1974.

5. The name of Richard J. DeFina appeared as an eligible on the certificate of eligibles furnished us by the Civil Service Commission New York City Area Office on June 19, 1974.

6. In making a selection from this certificate of eligibles, personnel specialists under my supervision sent pre-employment vouchers, or inquiries, to in excess of twenty-six previous employers listed on Mr. DeFina's application.

7. Three of the previous employers listed by Mr. DeFina in his application returned the vouchers indicating that Mr. DeFina had been discharged or terminated from their organizations, although Mr. DeFina had denied being fired in his application for federal employment. Several other of the vouchers indicated a poor employment record.

8. The Eastern Region selected another candidate from the certificate of eligibles furnished by the Civil Service Commission, and on January 7, 1975, filed an objection (Exhibit to Complaint) to Mr. DeFina with the Civil Service Commission based on his poor employment record and on his having denied having been fired from employment. Copies of twenty employment vouchers were submitted to the United States Civil Service Commission with our objection (see Exhibit to Complaint).

9. The New York City Area Office of the United States Civil Service Commission sustained the objection to Mr. DeFina on February 6, 1975 (Exhibit to Complaint).

10. Upon information and belief, after receipt of Mr. DeFina's aforementioned application, it was transmitted to the Office of the Regional Flight Surgeon of the Federal Aviation Administration because of the mistaken belief that Mr. DeFina was an applicant for the position of Air Traffic Control Specialist. As a matter of normal procedure, the Regional Flight Surgeon, after obtaining authorization from Mr. DeFina, requested and obtained from the Veterans Administration (the "VA") copies of Mr. DeFina's medical records. These records were not used by the Federal Aviation Administration because Mr. DeFina in fact did not apply for the position of Air Traffic Control Specialist, and the records were returned to the VA at its request.

11. By letters dated February 19, March 8, and March 24, 1975, Madeline DeFina as attorney for Mr. DeFina requested copies of certain records pursuant to the Freedom of Information Act. Said letters are appended as Exhibit A, B, and C respectively.

12. In response to the aforementioned request, the Federal Aviation Administration Eastern Region released copies of the following records:

1. Two interview records.

2. Three medical releases (signed by Mr. DeFina).

3. Copy of telegram to the VA of January 13, 1975 requesting Mr. DeFina's medical records.

4. Copy of the VA letter of March 10, 1975 advising that Mr. DeFina had withdrawn his medical authorization.

13. The Federal Aviation Administration Eastern Region declined to release copies of the records received from the VA because such records were the property of the VA and were therefore returned to that agency. The Federal Aviation Administration Eastern Region also declined to release copies of employment inquiries sent to and returned by Mr. DeFina's former employers listed in his application.

14. Upon information and belief, by letter dated May 2, 1975, the aforementioned employment inquiries were released to Ms. DeFina by L. J. Churchville, the Assistant Administrator for Information Services of the Federal Aviation Administration, in response to Ms. DeFina's administrative appeal. The only deletions made were of the names of employers who had responded to these inquiries. This letter is appended hereto as Exhibit D.

15. Upon information and belief, no part of the investigative record compiled by the Federal Aviation Administration which was released in its entirety except for the aforementioned deletions has ever been disclosed outside the Federal Aviation Administration except to the United States Civil Service Commission as stated above or in conjunction

NLG:cw

with the instant Freedom of Information Act request.

Dated: Queens, New York

August 4, 1975

Theodore N. Burtness

THEODORE N. BURTNESS

Sworn to before me this

4th day of Aug., 1975.

Charles P. Bennett

NOTARY PUBLIC

CHARLES P. BENNETT
Notary Public, State of New York
No. 3[illegible]4200
Qualified in Nassau County
Certificate filed in Queens County
Commission Expires March 30, 1976

MADELINE E. DEFINA
ATTORNEY AT LAW
220-31 UNION TURNPIKE
FLUSHING, NEW YORK 11364

GR 9-1555

A 142

February 19, 1975

Department of Transportation,
Federal Aviation Administration,
Eastern Region, Federal Bldg.,
J.F.K. International Airport,
Jamaica, New York, 11430.

Re: RICHARD J. DE FINA
Att: T.N. Burtness, Chief, Manpower Div.

Dear Sir:

On February 11, 1975, you sent to me a letter, completely ignoring my request that my client be given an opportunity to answer what you accused him of telephonically to me when you read the criminal code to me that he was guilty of making false statement. You also refused when I telephoned you upon receipt of your letter of Feb. 11, rejecting my client on his #work Record#. Telephonically you gave different statements and stated that his over qualification for the job had been noted on his record by the interviewer.

I now call upon you to give me a copy of the file which I will list and I will pay the reasonable costs to send me a copy of the file demanded. I am making this demand under Section 552 of Title V of the U. S. Code (Freedom of Information Act) and will expect an answer within 10 days or I will go into Federal District Court for the right to obtain copies of what is in my client's file and for his right to answer what is and have kept him unemployed for years.

1. As to why you made him sign for the release of his V.A. medical file then it is admitted you had no right to said file. Although this authorization you got my client to sign was revealed as wrong by the V.A. I want copies of what you sent to the V.A. about the medical file and what the V.A. sent to you about the medical records. I want copies of all the communication had with your medical office and the V.S.

2. I want a copy of what the interviewer stated, what the F.B.I, police or anybody else you contacted in your "investigation". Also copies of what former employers, employees, and others wrote about Mr. DeFina. I want a complete file as complied by your agency on my client, Mr. DeFina.

Madeline DeFina

Exhibit "A"

MADELINE E. DEFINA
ATTORNEY AT LAW
220-31 UNION TURNPIKE
FLUSHING, NEW YORK 11364

GR 9-1535

A 143

March 8, 1975

Duane W. Freer, Director,
Federal Aviation Administration,
Dept. of Transportation,
Federal Bldg., FJK International Airport,
Jamaica, New York, 11430

Re: Demand under FOIA Behalf of
RICHARD J. DE FINA

Sir:

This is to notify you that you have not complied with my demand under the FOIA received by you on February 20, 1975 and you are arbitrarily and capriciously withholding and ignorning an important part of my client's demand made upon you which demand read as follows: Paragraph 3 number 1. As to why you made him sign for the release of his V.A. medical file when it is admitted you have no right to said file. Although this authorization you got my client to sign was revealed as wrong by the V.A. I want copies of what you sent to the V.A. about the medical file and what the V.A. sent to you about the medical records. I want copies of all the communication had with your medical office and the V.A.

This is how you answered this demand: The following you stated in your March 6 1975 letter(which was deliberately held on your desk passed the 10 days allowed you according to Mr. Burtness who so informed me on March 7 when I told him he was in default that the letter was on your desk and as I did not put on the envelope "FOIA" I was not entitled to get the information within 10 days thus he was going to hold the letter, strangely dated "Mar 6" until he felt like mailing it. I told him it better be at once as I had a letter from the Justice Dept stating 10 working days had to be followed nothing was ever stated in the law that only if the envelope was so marked did the 10 working days applied. At this he stated he would at once mail the letter) that I could have:

2. Three Medical Releases (signed by Mr. DeFina) and
3. Copy of Telegram to V.A. requesting Mr. DeFina's medical record and ignoring the rest of the demand. I know that you followed your usual procedure of confusion, but there is no confusion I demand what I requested or I will insist on penalty inposed by the FOIA.

Rec'd EA-I
MAR. 11 1975

Exhibit "B"

My client believes that there was no valid offer of a job but a possibility that the Civil Service or another Agency perhaps the Drug Enforcement Administration whom already falsely accused both me and my client of making untruthful statements had the medical records from the V.A. in their possession and only sought to legalize an illegal possession.

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I demand an immediate reponse to my demand for an snswer as to whether or not you got my client's medical files from the V.A. as the V.A. at a hearing back in 1971 admitted making false entries in my client's medical records.

You also ignored my demand for statements received by you pertaining to Mr. DeFina. I now specically ask you did you get from Mr. Frank Monastero of the Drug Enforcement Administration a statement that I contradicted Mr. DeFina about his mother. The mother of Mr. DeFina, is Rose DeFina, and I demand an answer if you have in your file any statement that contradicts this fact.

As you have deliberately admitted holding back pass the 10 working days, I suggest you (meaning Mr. Burtness) do not hold back your answer. I was made to understand that while you Mr. Breer signs the letter, he, Mr. Burtness, mails it out.

Mathew DeFina

MADELINE E. DEFINA
ATTORNEY AT LAW
220-31 UNION TURNPIKE
FLUSHING, NEW YORK 11364
GR 9-1555

A 145

March 24, 1975,

To: Director, Duane W. Freer and
T.N. Burtness, Chief Manpower Division,
FAA, International Airport, Jamaica,
New York, 11430.

RE: RICHARD J. DE FINA, FOFA.

To-day, March 24, 1975, I received your letter to me dated March 19, 1975, with another letter from Civil Service, in which was enclosed your statement "Objections to Eligible". I hereby accuse you and this is not as you stated in your false rejection, "a baseless accusation" This is made upon your false and malicious report which in my opinion was meant to keep my client, Richard J. De Fina, permanently unemployed and destroy his carcer field forever. I will use every legal means at my disposal to legally brand this report for what it is and hold you legally responsible.

I will start with demanding from you and civil Service a hearing to prove that you have wrongfully denied my client the right to this position. This is not the first time a hearing was demanded based on your false statements and each time my right to have my client answer has been denied.

I accuse you, Mr. Burtness of a vicious statement. Each time you would say my client had "40" jobs I would say he did not. In my letter to you, dated Feb. 5, 1975, I demanded a hearing and wrote my client had 34 employers as he job shopped. You stated to Civil Service he had 49. You stated he was qualified but would not, refuse, to give the names of employers.

You tricked an authorization to get VA medical files, then had to be forced, through repeated demands to state you had the VA file. I demand to know if you copied any of this medical file which it is now admitted you had no right to. I put you on notice and statement by you quoting any part of this file will be punished legally. I demand to know when you got this file when you returned it and if you made any copies of any part of this file.

I demand to know how you concluded my client "cannot perform simple tasks to completion and to the satisfaction of his supervisors". This vicious libel, I will, do everthing legally possible to hold you to account for.

Exhibit "C"

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I am appealing your denial as to most of my demands made under the FOIA, concealing that you had the VA medical file, which you had no right to and not answering within the 10 working days.

I am enclosing the check for $3.50 which you stated I had to send to you to get the following:

1. Interview records

2. Three Medical Releases signed by my client through your trickery. You never needed this file and it was admitted. The VA when told about the release stated to Mr. DeFina you would never get the file. Your office stated it was a mistake to get him to sign, still after repeated demands by you to find out if you had this file you finally admitted you did! I demand to know if you have made copies of this file if you did you will be legally liable for copying a medical file you had no right to.

3 is included in 2 above but you stated in your letter March 19, that I can have what the VA sent to you. I will expect it.

3. I again make a demand for the names of the employers you wrote to and what they stated. This is a civil and constitutional right to know any derogatory statements and answer them.

Michelle M. Jones

A 147

, 2, 1975

, Madeline M. DeFina
Attorney at Law
[illegible]-31 Union Turnpike
Flushing, New York 11364

Dear Ms. DeFina:

This is in response to your letter of March 24, 1975, requesting on behalf of your client, Richard J. DeFina, a reconsideration of the denial by the Eastern Regional Director, dated March 6, 1975, of your request for certain records under the Freedom of Information Act.

In your letter to the Federal Aviation Administration (FAA), dated February 19, 1975, you asked that the following records be made available to your client under the Freedom of Information Act:

1. Copies of correspondence between FAA and the Veterans Administration concerning Mr. DeFina's medical records while in the military service;

2. Copies of interview reports;

3. Information as to what other government agencies (Federal Bureau of Investigation, Police Department, etc.) the FAA had contacted in connection with the FAA's pre-employment investigation; and

4. Copies of former employer reports and of others who responded to FAA inquiries on Mr. DeFina.

In his letter of March 6, the Regional Director advised you, in effect, that all records in possession of this agency relating to Mr. DeFina's application for employment were available except for "employment inquiry reports from former employers and acquaintances of Mr. DeFina. With respect to these reports, the Regional Directors advised you that these reports had been solicited by the agency under an agreement of confidentiality and were, therefore, exempt under Title 5 United States Code, Section 552(b)(3) and (7) as implemented by paragraphs 7.67 (3) and 7.71 of Part 7 of the regulations of the Office of the Secretary of Transportation, 49 C.F.R. Part 7.

Exhibit "D"

BEST COPY AVAILABLE

In your letter of March 5, to the Regional Director, you stated that the March 6 response had not addressed itself to the question of why the FAA made Mr. DeFina execute a release for Veterans Administration (VA) medical records or to your request for all copies of correspondence between FAA and VA relating to Mr. DeFina's medical records. In addition, you again asked for the release of all statements received from former employers pertaining to Mr. DeFina. In his response, dated March 19, the Regional Director reaffirmed his determination of March 6 that all records in possession of the Agency except the "employment inquiry report" were available to you upon payment of the appropriate fees.

I have reviewed the record and the basis of the denial by the Regional Director and concur in his determination that the "employment inquiry reports" are exempt from disclosure for the reasons given in his letter of denial. In addition, such reports, to the extent the identity of the individuals submitting them may be discerned, are also exempt from disclosure under exemption 6 of the Freedom of Information Act, 5 U.S.C. 552 (b)(6), as implemented by Section 7.73 of Part 7, Department of Transportation Regulations (49 CFR). The purpose of this exemption is to provide a proper balance between the protection of personal privacy and the preservation of the public's right to Departmental information by authorizing the protection of information that, if released, might unjustifiably invade an individual's personal privacy.

Withholding of these reports, however, is justified only to the extent necessary to protect the personal privacy of those who responded to the agency's inquiries in reliance of the agency's assurance of confidentiality. Consequently, all matters which would lead to the identification of the person submitting the report have been deleted and such reports with identifying matter deleted are enclosed.

The undersigned is the person responsible for the partial denial of your request on reconsideration, with the concurrence of Mr. Stephen L. Grossman, Assistant General Counsel, Department of Transportation.

You may seek a judicial review of this determination by filing a complaint in the U. S. District Court in the district in which you reside, or have your principal place of business, or in which the agency records are situated, or in the District of Columbia, as provided in 552(a)(4)(B) of the Freedom of Information Act (5 U.S.C.).

Sincerely,

(Signed) Dennis E. Feldman

for L. J. Churchville
Assistant Administrator
Information Services

Enclosure

AIS-200/LLee/rwe/63485/2May75
cc: AIS-1(—
AIS-200, AIS-230

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

----------X

RICHARD J. DE FINA,

Plaintiff,

v.

VIRGINIA M. ARMSTRONG, individually and as Regional Director of the U. S. Civil Service Commission; DONALD J. BIGLIN, INDIVIDUALLY AND AS ASS'T, etc., ROBERT J. DRUMMOND, JR., individually and as Director, U.S. Civil Service Commission, Bureau of Personnel Investigations, JOSEPH T. LA ROCCO, individually and as Personnel Officer, U. S. Dept. of Justice, Drug Enforcement Administration, FRANK V. MONASTERO, individually and as Associate Regional Director; U. S. Dept. of Justice, Drug Enforcement Administration, EDWARD E. LEVI, individually and as Attorney General FELICE PEPE, individually and as Chief, Medical Administration and "JOHN DOE" #1 and JOHN DOE #2, accusers, whose true names are presently unknown,

Defendants.

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A F F I D A V I T

INDEX NO. 75 CIV 1564

VAC NO. 21 112 651

STATE OF NEW YORK)
: ss
COUNTY OF NEW YORK)

JOHN B. DE LEO, being duly sworn, deposes and says:

1. I am an attorney and counselor-at-law duly admitted to practice in the State of New York and the attorney for the Administrator of Veterans Affairs with offices at 252 Seventh Avenue, New York, N.Y. 10001.

2. I am submitting this Affidavit on behalf of the Veterans Administration based on information and belief except where otherwise stated.

3. The above action, insofar as the Veterans Administration is concerned, alleges that "The defendant, FELICE PEPE, Chief, Medical Administration refuses to honor the demand served upon him, under Title 5, Section 522 of the U.S.C. as to how many unauthorized or authorized person or persons that he gave plaintiff's medical file to".

4. Your deponent respectfully submits the following chronology of events:

a) The plaintiff, by an undated letter received in the New York Regional Office of the Veterans Administration on November 19, 1974, authorized the release of his medical records to DR. JOHN P. SKELLY, Federal Aviation Administration, Federal Building, Jamaica, New York 11430. A copy of a request by the Federal Aviation Administration for the veteran's medical records was attached to his letter.

b) By letter dated December 12, 1974, and received in the New York Regional Office of the Veterans Administration on December 20, 1974, the plaintiff revoked his authorization for release of information to DR. SKELLY.

c) A TWX from DR. SKELLY was received in the New York Regional Office on January 13, 1975, again requesting the medical records.

d) FELICE PEPE, Chief, Medical Administration Service, New York Regional Office, advised the Federal Aviation Administration, by letter dated March 10, 1975, that the plaintiff had cancelled his authorization to release the information to the Federal Aviation Administration.

e) By a letter dated March 8, 1975, mailed March 10, 1975 and received in the New York Regional Office March 12, 1975, plaintiff requested the following:

"Copies of all communications you have ever had with any person, agency or other in which there was a demand for my medical records and if such demand was made, copies of said demand and if any record was ever sent then a copy of what matter was ever sent out."

This letter was hand-delivered to the District Counsel's Office by an employee of the Medical Administration Service on April 8, 1975. The District Counsel's Office rendered an opinion dated April 11, 1975 permitting the release of information to the plaintiff if such release would not be injurious to the physical or mental health of the veteran.

f) On April 15, 1975, the Chief, Medical Administration Service released to MADELINE E. DE FINA, plaintiff's attorney, photostatic copies of all communications which the Veterans Administration had received from the Federal Aviation Administration for the plaintiff. Also forwarded was a copy of a reply from the Medical Administration Service to the Federal Aviation Administration dated March 10, 1975, referred to in Sub-Paragraph (d) above.

g) Upon investigation by an attorney in the District Counsel's Office of the Veterans Administration, it was determined that a letter was sent by the Federal Aviation Administration, dated March 19, 1975, which stated the following:

"Reference your letter of March 10, 1975 to Mr. Herbert K. Wilson, Jr., Personnel Management Specialist, copies of military medical records for Mr. Richard J. De Fina are attached for your disposition."

5. The veteran's request, dated March 8, 1975, for Release of Information under Title 5, U. S. Code, Section 522, received in this office March 12, 1975, was inadvertently filed with a notation of "No Action Necessary". This notation was explained by MRS. AIDA BAQUERO, a Veterans Administration employee in the Medical Administration Division of this Regional Office, who stated that she made the notation because of the letter of March 10, 1975 to the Federal Aviation Administration referred to in Sub-Paragraph (d) above, and she felt that no further action was necessary at that time.

6. On June 5, 1975, an amended Summons and Complaint was left with MRS. EILEEN DURHAM, an employee of the Medical Administration Service, Veterans Administration Hospital Outpatient Clinic, 252 Seventh Avenue, New York, New York 10001. The amended Summons and Complaint named MR. FELICE PEPE, Chief, Medical Administration Service as a co-defendant, both indi-

vidually and in official capacity. However, MR. PEPE was not served personally with the Summons and Complaint.

7. Upon information and belief by letter dated July 23, 1975, the United States Attorney, Southern District of New York, released to MR. DE FINA, a photostatic copy of the veteran's military medical records referred to by him and which he alleges were sent to the Federal Aviation Administration.

8. I wish to point out and emphasize that information from a veteran's claims file may be released to a United States Government Agency which requests such information, pursuant to Title 38, U. S. Code, Section 3301(3) and Title 38, CFR, Section 1.506(a) which provides that:

Section 3301

"All files, records, reports, and other papers and documents pertaining to any claim under any of the laws administered by the Veterans' Administration and the names and addresses of present or former personnel of the armed forces, and their dependents, in the possession of the Veterans' Administration shall be confidential and privileged, and no disclosure thereof shall be made except as follows:....

(3) "When required by any department or other agency of the United States Government."

Section 1.506(a)

"All records or documents required for official purposes by any department or other agency of the U. S. Government ...shall be furnished in response to an official request, written, oral, from such department or agency. If the requesting department or agency does not indicate the purpose for which the records or documents are requested

and there is doubt as to whether they are to be used for official purposes, the requesting department or agency will be asked to specify the purpose for which they are to be used."

This information may be released without the veteran's consent.

John B. De Leo

JOHN B. DE LEO

Sworn to before me this 29th

day of September, 1975.

Max D. Shemtob

Notary Public
State of New York

MAX D. SHEMTOB
Notary Public, State of New York
No. 24-8901205
Qualified in Kings County
Commission Expires March 30, 1976

LG:bj
-271

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RICHARD J. DE FINA, : NOTICE OF MOTION

Plaintiff, : 75 Civ. 1326 (WK)

-v- :

FEDERAL AVIATION ADMINISTRATION, et al. : 3-23-76

Defendants.

RICHARD J. DE FINA, :

Plaintiff, :

-v- :

VIRGINIA M. ARMSTRONG, et al. : 75 Civ. 1564 (WK)

Defendants.

RICHARD J. DE FINA, :

Plaintiff, :

-v- :

CLARENCE M. KELLEY, et al. : 75 Civ. 2119 (WK)

Defendants. :

RICHARD J. DE FINA, :

Plaintiff, :

-v- :

RITCHEY WILLIAMS, et al. : 75 Civ. 2362 (WK)

Defendants. :

MADELINE DE FINA, :

Plaintiff, : 75 Civ. 2681 (WK)

-v- :

ROBERT J. DRUMMOND, et al. :

Defendants. :

BEST COPY AVAILABLE

G:bj
271

S I R :

A 155

PLEASE TAKE NOTICE that upon the annexed memorandum of law and upon all prior proceedings had herein, the undersigned will move this Court in Room 519 of the United States Courthouse, Foley Square, New York, New York on April 9, 1976 at 2:00 P.M. for reargument of the Court's memorandum and order of February 26, 1976 to the extent that it directs the United States Civil Service Commission to disclose to plaintiff Richard De Fina in unexpurgated form the Certificates of Eligibles wherein Mr. De Fina is listed.

Dated: New York, New York

March 22, 1976

Yours, etc.

ROBERT B. FISKE, JR.
United States Attorney for the
Southern District of New York
Attorney for the Federal
Defendants

By: _____
NATHANIEL L. [redacted]
Assistant United States Attorney
Office and Post Office Address
United States Court House
One St. Andrews Plaza
New York, New York 10007
Tel.: (212) 791-1946

TO: Madeline De Fina, Esq.
220-31 Union Turnpike
Flushing, New York 11364

Joseph F. Onorato, Esq.
1633 Broadway
New York, New York 10019

Form 280 A-Affidavit of Service by Mail
Rev. 12/75

A 156

AFFIDAVIT OF MAILING

State of New York)
County of New York) ss

MANUEL BERMUDEZ being duly sworn, deposes and says that he is employed in the Office of the United States Attorney for the Southern District of New York.

That on the

23rd day of March, 1976 he served a copy of the within Notice of Motion with Memo of Law

by placing the same in a properly postpaid franked envelope addressed:

MADELINE DE FINA, ESQ., 220-31 Union Turnpike, Flushing, N.Y. 11364

JOSEPH F. ONORATO, Esq., 1633 B'way, NYC 10019

And deponent further says he sealed the said envelope and placed the same in the mail chute drop for mailing in the United States Courthouse Annex, One St. Andrews Plaza, Borough of Manhattan, City of New York.

Sworn to before me this

23rd day of March, 1976

RALPH L LEE
Notary Public, State of New York
[illegible] Queens County

A 157

U. S. ATTORNEY'S OFFICE
SOUTHERN DISTRICT OF NEW YORK
ONE ST. ANDREW'S PLAZA
NEW YORK, NEW YORK 10007

NLG:mkb

75-1170

March 23, 1976

Madeline DeFina, Esq.
220-31 Union Turnpike
Flushing, New York 11364

RE: DeFina v. Armstrong, et al.,
75 Civ. 1364

Dear Ms. DeFina:

In its memorandum and order of February 26, 1976 the Court directed the Government to furnish for its in camera review a copy of the Drug Enforcement Administration's report of investigation which had heretofore been withheld in its entirety. After review of the report, the Court proposed that it be released in partially redacted form. The Government has consented to the Court's proposal and accordingly we hereby release the enclosed copy of the report as redacted by the Court.

Very truly yours,

ROBERT B. FISKE, JR.
United States Attorney

By: _____
NATHANIEL L. GREBER
Assistant United States Attorney
Telephone: (212) 791-1944

Enclosure
cc: Honorable Whitman Knapp
United States District Judge
United States Courthouse
Foley Square, Room 3004
New York, New York 10007

REPORT OF INVESTIGATION

A 158

FILE TITLE: DeFINA, Richard Joseph
APPLICANT

IDENTIFIER:

FILE NUMBER: (Cp

PROGRAM CODE:

☐ ACTIVE ☐ CLOSED ☐ REQUESTED ACTION COMPLETED
☐ ACTION REQUESTED FROM

OTHER OFFICERS:

CROSS FILE ☐ RELATED FILES ☐

BY
AT Special Agent
New York, New York
DATE March 29, 1973

Exempt

REPORT RE: Results of Background Investigation on applicant Richard Joseph DeFINA.

SYNOPSIS

A preliminary background check on applicant DeFINA uncovered a host of mysterious entries on the applicant's Standard Form 86.

DETAILS

1. An NCIC check on Richard Joseph DeFINA showed no recent criminal record.

2. The applicant lists employment at General Instrument Corporation from April, 1969 to September, 1969 and reason for leaving is given as contract terminated. spoke to of General Instrument Personnel and was told that DeFINA was trained as a technician for 9 weeks and then resigned after giving the company two days notice. He is not eligible for re-employment.

3. DeFINA lists employment at Stromberg Datagraphics, San Diego, California from September, 1968 to April, 1969. personnel, verified employment as a technician, but would not provide any further data. DeFINA lists a Queens, New York address during this employment.

4. DeFINA lists 'reason for leaving' ITT Federal Laboratories as lay off. ITT Federal Laboratories personnel states that DeFINA resigned and had he been terminated in a lay-off, their records would note such lay-off. ITT Federal Laboratories records show no lay-off as claimed by DeFINA.

5 DeFINA lists the fact that all gaps in employment are filled by his position as a law clerk for his sister, Madeline DeFINA. It should be noted that Madeline DeFINA is 67 years old and Richard DeFINA is 37 years old. Agent contacted a reference [who]

REGION
DISTRICT
OTHER

SIGNATURE (Agent)
Special Agent

APPROVED (Name and title)
Group Supervisor

DATE

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Bureau of Narcotics and Dangerous Drugs
Department of Justice

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has known the family and that Mr. DeFINA works for his mother who is a lawyer. Apparently, the reference has had the false impression that DeFINA's sister is actually his mother.

6. DeFINA states that he has been the subject of a background investigation by U.S. Customs in January, 1971. He lists no employment by U.S. Customs on SF 86. U.S. Customs personnel in New York stated that Richard Joseph DeFINA was employed as a Customs Security Officer from January 22, 1971 to February 10 1971, a period of approximately 20 days. Records in New York show that DeFINA resigned. All other pertinent data has been forwarded to the records center in St. Louis, Missouri.

7. A second reference.

was also under the impression that DeFINA's sister was his mother. also believed that a member of DeFINA's immediate family was a state representative of some sort and could provide no other information regarding the applicant.

8. Based on the above discrepancies it is considered beneficial to terminate the investigation at this point. The subject does not display the candor necessary to complete an investigation involving a sensitive position. In addition his employment history displays a very transient attitude.

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Department of Justice
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Form 280 A-Affidavit of Service by Mail
Rev. 12/75

AFFIDAVIT OF MAILING

State of New York)
County of New York) ss

CA 76-6091

Marian J. Bryant being duly sworn, deposes and says that she is employed in the Office of the United States Attorney for the Southern District of New York.

That on the 27th day of October, 1976 she served a copy of the within Govt's Supplemental Appendix

by placing the same in a properly postpaid franked envelope addressed:

Madeline DeFina
220-31 Union Turnpike
Flushing, New York 11364

Joseph F. Onorato, Esquire
1633 Broadway
New York, New York 10019

And deponent further says she sealed the said envelopes and placed the same in the mail chute drop for mailing in the United States Courthouse Annex, One St. Andrews Plaza, Borough of Manhattan, City of New York.

Marian J. Bryant

Sworn to before me this
27th day of October, 1976

Ralph I. Lee

RALPH I. LEE
Notary Public, State of New York
No. 41-2292838 Queens County
Term Expires March 30, 1977